

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

* * * * *

UNITED STATES OF AMERICA * NO. 6:17-CR-40-RC-KNM-1
* Beaumont, Texas
vs. *
* 3:04 p.m. - 6:20 p.m.
THEODORE ROBERT WRIGHT, III * July 5, 2017

* * * * *

ARRAIGNMENT/PRETRIAL/DETENTION HEARING

BEFORE THE HONORABLE CHIEF JUDGE RON CLARK
UNITED STATES DISTRICT JUDGE

* * * * *

Proceedings recorded by computer stenography
Produced by computer-aided transcription

Edward L. Reed
Court Reporter
9251 Lynne Circle
Orange, Texas 77630 * 409-330-1605

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EDWARD L. REED

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P R O C E E D I N G S

3:04 P.M. - JULY 5, 2017

THE COURT: All right, I'll call United States vs. Theodore Robert Wright, No. 6:17-CR-40. Who is here for the Government?

MR. COAN: Your Honor, good afternoon. Frank Coan appearing for the United States.

THE COURT: And with you is?

MR. COAN: Special Agent Jim Reed with ATF.

THE COURT: Very good. And who's here for Defendant?

MR. GRASSO: Good afternoon, Your Honor. Gabriel Grasso, pro hac vice, on behalf of Mr. Wright, who is present on Pretrial Release. And along with me is my local counsel, Mr. Carlo D'Angelo.

THE COURT: Welcome, Mr. D'Angelo.

MS. ANNIS: Good afternoon, Your Honor.

THE COURT: All right, please be seated.

Okay, I understand that there was an initial appearance in Nevada, but not the arraignment, and it would seem that we might as well get that out of the way.

MR. GRASSO: That's correct, Your Honor, there was no arraignment.

THE COURT: All right. So, Mr. Wright, if you

1 would step up to the podium here, please, and be sworn.

2 CASE MANAGER: Raise your right hand, please.

3 Do you solemnly swear the testimony you are about to
4 give in this cause now in hearing before the Court
5 shall be the truth, the whole truth, and nothing but
6 the truth, so help you God?

7 DEFENDANT WRIGHT: I do.

8 THE COURT: All right, would you state your
9 full name for the record, please?

10 DEFENDANT WRIGHT: Theodore Robert Wright,
11 Your Honor.

12 THE COURT: How old are you, sir?

13 DEFENDANT WRIGHT: I'm 32 years old.

14 THE COURT: How far did you go in school?

15 DEFENDANT WRIGHT: High school.

16 THE COURT: And what is your employment?

17 DEFENDANT WRIGHT: I have a company that buys,
18 sells, and trades mostly aircraft, former military
19 aircraft.

20 THE COURT: All right. And the answer to this
21 one is almost self obvious, but it's on the list. Are
22 you able to speak and understand the English language?

23 DEFENDANT WRIGHT: Yes, sir, I am.

24 THE COURT: And standing next to you is your
25 attorney?

1 DEFENDANT WRIGHT: Yes.

2 THE COURT: And, sir, would you go ahead and
3 identify yourself again for the record.

4 MR. GRASSO: Gabriel Grasso.

5 THE COURT: And have you had any problems,
6 Mr. Grasso, in communicating with your client or do you
7 have question about his ability to understand English?

8 MR. GRASSO: No, Your Honor.

9 THE COURT: Mr. Wright, have you currently or
10 recently been under the care of a physician or
11 psychiatrist or hospitalized or treated for any kind of
12 narcotic drug addiction?

13 DEFENDANT WRIGHT: No, Your Honor.

14 THE COURT: Right now, today, have you taken
15 any kind of drugs or medicines or pills, either legal
16 or illegal, or consumed an alcoholic beverage of any
17 kind, say, in the last 24 hours?

18 DEFENDANT WRIGHT: No, Your Honor, I had one
19 drink with caffeine in this morning on the ride over
20 here, and that's all.

21 THE COURT: Do you have any trouble
22 understanding or hearing me, any medical condition that
23 makes it difficult for you to focus on what I'm saying
24 or listen to what I'm saying?

25 DEFENDANT WRIGHT: No, Your Honor, loud and

1 clear.

2 THE COURT: And I assume, then, that you have
3 gone over a copy of the Indictment with your attorney?

4 DEFENDANT WRIGHT: Yes, Your Honor, I have.

5 THE COURT: And you had an opportunity to
6 consult with your attorney about the Indictment?

7 DEFENDANT WRIGHT: Yes.

8 THE COURT: Do you want it read out loud or are
9 you waiving the reading?

10 DEFENDANT WRIGHT: I will waive the reading,
11 Your Honor.

12 THE COURT: Counsel, you agree with that also?

13 MR. GRASSO: Agreed, Your Honor.

14 THE COURT: Then I ask you how you plead to the
15 charges in the Indictment, guilty or not guilty?

16 DEFENDANT WRIGHT: Not guilty, Your Honor

17 THE COURT: All right. Then under the Speedy
18 Trial Act and our local Speedy Trial Act plan, I will
19 set the case for August 14th of 2017. The Final
20 Pretrial is August 3rd, 2017, at 3 p.m. The trial is
21 August 14th of 2017 there in the Tyler Courthouse in
22 Tyler, Texas.

23 All right. So that takes care of --
24 anything the Government thinks needs to be added to any
25 of that?

1 MR. COAN: No, Your Honor.

2 THE COURT: All right. And anything, counsel?

3 MR. GRASSO: Your Honor, I was just wondering
4 if -- we've been working with a sealed Indictment -- if
5 we could move to unseal it at this point?

6 THE COURT: You've seen a copy of it?

7 MR. GRASSO: I've seen a copy of it, but it's
8 got --

9 THE COURT: I thought I saw in one of your
10 submissions that there were two other defendants, but I
11 think you said they had already confessed. Is there
12 any reason to keep it sealed?

13 MR. COAN: Your Honor, there are three other
14 defendants and they have not been arrested yet. We
15 would ask that the docket remain sealed at least for
16 the time being to give opportunity to bring those
17 individuals --

18 THE COURT: Any reason -- I mean, obviously,
19 at some point it has to be unsealed, but is there any
20 reason to have it unsealed at this particular point? I
21 wanted to be sure you had a copy of it, of course.

22 MR. GRASSO: No, Your Honor, we have a copy of
23 it, and because I didn't know what the status of the
24 other alleged co-defendants are, I haven't seen the
25 names. We have a suspicion of who they might be, but

1 we don't have an objection to that, Your Honor.

2 THE COURT: All right. If it starts to
3 become -- my guess is that I'm going to get a motion
4 from the Government for a continuance fairly quick
5 because you don't have any other people in here unless
6 you want to try the case more than once.

7 But if it starts to drag on too long and
8 there starts to become some kind of detriment,
9 unfairness to the Defendant over it being sealed, go
10 ahead and raise that again and I'll consider it at that
11 time.

12 MR. GRASSO: Thank you, Your Honor.

13 THE COURT: All right. And you may be seated.

14 Okay. We are now here at the Detention
15 Hearing and both sides have -- we've had, as I
16 understand it, a hearing in Nevada and the magistrate
17 judge went ahead and determined that the Defendant
18 should be released on conditions. I have a copy of the
19 Pretrial Services Report from the Pretrial Services
20 Officer that was done there in Nevada and have also
21 received a pair of motions from the Government and a
22 pair of responses from defendant, which I've also read.

23 MR. GRASSO: Your Honor, if I may?

24 THE COURT: Sure.

25 MR. GRASSO: At this point it would be as good

1 a time as any, if I could. There is a correction to
2 make in my motion. I just wanted to make sure the
3 Court and the parties --

4 THE COURT: All right. And this would be
5 your --

6 MR. GRASSO: My opposition, the last
7 opposition I filed.

8 THE COURT: So Document No. 13, what's the
9 correction, then?

10 MR. GRASSO: On page 5, Your Honor, paragraph
11 G, if I can sort of set the scenario for you, Your
12 Honor.

13 THE COURT: Okay.

14 MR. GRASSO: This is a situation where we had
15 the Detention Hearing last week. I believe either that
16 afternoon or the next day I got the Government's First
17 Motion to Reconsider Detention. Then I responded to
18 that. It was sort of like a quick motion that they
19 filed and I filed a quick response. I thought that
20 would be the end of it. Then they filed another
21 motion, the second one. Then I filed my more extensive
22 one, which I believe the Court said 13?

23 THE COURT: It's Document No. 13.

24 MR. GRASSO: Then I filed 13 and that was --
25 this document was written over the weekend.

1 THE COURT: Okay.

2 MR. GRASSO: And my whole staff was gone, it
3 was just me in the office. I was meeting with my
4 client and his wife. I had conversations with them
5 that helped me put this together. It was just a big
6 rush because I knew I had to get this in by Monday
7 because I spoke to the Court's clerk and the Court's
8 clerk said the Court wanted it by Monday.

9 And in paragraph G, I indicated -- because
10 we had a little bit of a conversation and my
11 understanding was that he was not a captain or had let
12 that expire. Apparently, after he read it, he called
13 me right away. And when I sent it to him by e-mail, he
14 said paragraph G is wrong. Apparently, Mr. Wright has
15 a -- well, I don't really know the laws of captaining a
16 ship or licensing, but if the Court wants to hear the
17 straight scoop as to what he is or what rating he has
18 as a captain, I would rather let him tell it.

19 THE COURT: Okay. Well, suffice it to say,
20 then, he --

21 MR. GRASSO: I had no idea, Your Honor, that
22 he had sailed a boat over the -- not as a captain, but
23 just as an individual person, he knows how to sail a
24 boat over the ocean. He's apparently tried to sail
25 long distances in the past. This is a long time in the

1 past. Apparently, my understanding of Mr. Wright is he
2 likes to collect ratings. By that I mean he's rated to
3 fly any kind of airplane, he's got a rating for a
4 gyrocopter, he's got a rating for a hot air balloon.

5 This is one of the these things where he
6 likes to take tests and collect ratings for these
7 things, and one of the ratings he has, apparently, is
8 what he calls a paper captain. He's indicated to me
9 that any time he goes out on boat in the past where the
10 boat had to go anywhere for a distance, he's hired a
11 real captain, but he knows how to captain a boat for
12 all intents and purposes, and I wanted to correct that
13 part.

14 THE COURT: All right, I'll make a note on
15 that. Let me, just in terms of who is going to speak
16 first, you've noted that. I appreciate that, counsel,
17 so we don't have to spend a lot of time on that
18 immediately.

19 Let me bring up the first question. It's
20 really a matter of law and it's something that I've
21 seen. There is a whole number -- I mean a big raft of
22 cases on guns and drugs and the presumption. But the
23 addition of the listing or the reference to that
24 section under the, I guess it's sometimes generally
25 referred to as the terrorism section with this

1 presumption, has an A and a B. And, counsel, you
2 brought it up in your most recent objection. I had
3 actually thought of it earlier. Neither of you have
4 cited any cases. You've made the logical argument.

5 Defendant makes the logical argument that,
6 well, if 18:2332b(5) -- I'm sorry, (g)(5)(B) is what
7 they are relying on to get this presumption, the
8 Government is relying on to get this presumption, then
9 obviously it can't fly because that's the terrorism
10 section and section (a) has an "and" in there.

11 The Government seems to be arguing that,
12 no -- actually don't address it, but I assume you're
13 arguing that that's just part a list. Terrorism isn't
14 involved at all, it doesn't have to include other
15 crimes charged, doesn't have to include that part
16 about calculated to influence or affect the conduct of
17 Government by intimidation or coercion or to retaliate
18 against Government conduct.

19 Then that becomes important, of course,
20 under the detention portion where we're looking at 18
21 U.S.C. Section 3142(e), subsection (3), where it says,
22 "Subject to rebuttal by the person, it shall be
23 presumed that no condition or combination of conditions
24 will reasonably assure the appearance of the person as
25 required and the safety of the community if the

1 judicial officer finds that there is probable cause to
2 believe that the person committed -- (C) an offense
3 listed in 2332b(g)(5)(B)," which I was just discussing.
4 And that's a pretty strong presumption. And the drugs
5 and firearm cases set out in great detail just how
6 strong that presumption is.

7 Anybody have a case that has ever looked
8 at the precise point, whether a listing of 844(i), the
9 one you're dealing with here, by itself, in a non-
10 terrorism case, means I should apply the presumption?

11 Does the Government have any such case?

12 MR. COAN: Yes, Your Honor.

13 THE COURT: Where? What's the cite?

14 MR. COAN: The cite -- I provided a copy to
15 defense counsel before the hearing and --

16 THE COURT: Are you talking about the two
17 cases that you just turned in?

18 MR. COAN: Yes, Your Honor. We provided two
19 cases to the Court, the *Stanford* case does not address
20 the presumption issue. The *Mahon* case out of the
21 District of Arizona does and it's an unpublished case
22 from 2009. The defendant there was charged with a
23 violation of 844(i) -- I

24 THE COURT: Right, but wasn't he attacking a
25 federal building?

1 MR. COAN: There was -- I don't recall that it
2 was a federal building. I recall that it was a public
3 building. He was not charged with a terrorism offense,
4 though.

5 THE COURT: Okay, since I got that case a
6 couple of minutes before I came in, I only had a chance
7 to skim it over and -- okay, it does appear that we
8 looked at that. I don't see where the Court even
9 considered the counter argument raised by Defendant,
10 i.e., that it's not under -- section (A) isn't met,
11 it's not calculated to influence or affect the conduct
12 of Government, which would intimidate or coerce or
13 retaliate against Government conduct.

14 MR. GRASSO: Your Honor?

15 THE COURT: Hold on one second. Let me just --

16 Okay, the Indictment alleges Daniel
17 entered into a conspiracy -- and I'm reading now from
18 2009 Westlaw 2450466, *United States vs. Mahon*. This is
19 a case out of District Court in Phoenix, Arizona. And
20 the Indictment alleges that Daniel entered into a
21 conspiracy with Dennis and others to promote racial
22 discord on behalf of the White Aryan Resistance (WAR)
23 by damaging and destroying buildings, facilities, and
24 real property of both the Government and businesses
25 whose activities conflicted with defendant's goals, and

1 they allegedly conspired to deliver a bomb to the City
2 of Scottsdale Office of Diversity and Dialog that
3 exploded on February 26, 2004 injuring Donna Logan and
4 Renita Linyard.

5 And then towards the end it talks about
6 the conspiracy allegedly included mailing instructions
7 and materials for the making of bombs and directions
8 that others should attack the Arizona and Texas power
9 grids if leaders of the White Aryan Resistance,
10 including Dennis, were arrested.

11 So that certainly seems to calculate --
12 or to influence or affect the conduct of Government by
13 intimidation or coercion or to retaliate. But at least
14 it's closely on point.

15 So that's your best case; right?

16 MR. COAN: Your Honor, I would tell you that
17 we had similar --

18 THE COURT: There is nothing wrong with
19 bringing up new theories in a court. That's my job.

20 MR. COAN: We had similar results with respect
21 to the research. The cases interpreting Subsection C,
22 there are very few. This is the only case that we were
23 able to locate that addresses 844(i) specifically.

24 Your Honor, I'm not standing before you
25 suggesting that the individual charged in the *Mahon*

1 case is the same as Mr. Wright with respect to his
2 motivations and his actions. I'm simply pointing out
3 that that individual, along with others, is charged
4 with the same arson violation that Mr. Wright has been
5 charged with, which, under our reading of 3142(e)(3)(C),
6 raises the rebuttable presumption.

7 THE COURT: Okay. And what about yourself,
8 Mr. D'Angelo? Any cases going the other way? I'm
9 sorry.

10 MR. D'ANGELO: That's quite all right.

11 THE COURT: Whichever of you wants to speak.

12 MR. D'ANGELO: I can't find any.

13 MR. GRASSO: That's fine, Judge. You know,
14 I've known Carlo for almost 45 years. We were public
15 defenders together in Broward County back a long time
16 ago. That's how I know him.

17 Your Honor, I'll admit, when I was doing
18 this on Saturday and Sunday, I looked for cases the way
19 Carlo is right now. I couldn't find any. I was mainly
20 looking for circuit cases.

21 Here's how I see it, Your Honor. 3142 is
22 a very specific statute that lists very specific events
23 that, as the Court is well aware, have a rebuttable
24 presumption. One of those events, it's not 844(i), but
25 it lists the terrorism statute, the 2332b. That's

1 listed under 3142. So 844 is not listed under that.
2 It's just a terrorism statute.

3 THE COURT: Well, wait a minute, wait a
4 minute. I'm looking at 18 U.S.C. Section 2332b.

5 MR. GRASSO: Right.

6 THE COURT: Section (g).

7 MR. GRASSO: This is 844.

8 THE COURT: And then subsection (5), and it
9 gets down to "(B) is a violation of -" and goes through
10 a bunch of things. Then it says "844(i) (relating to
11 arson and bombing of property used under state
12 commerce)". It doesn't say the terrorism statute. It
13 says 844(i).

14 Now, when you look at 844(i) -- in other
15 words, there is a listing there of things that are a
16 violation. To make it a crime of terrorism, it has to
17 also have section (A) in there, I'll agree with that.

18 MR. GRASSO: I guess my point, Your Honor, is
19 that a presumption of detention under 3142 is not
20 844(i). It's 2332b. That act has to occur for the
21 rebuttable presumption to be triggered.

22 THE COURT: Okay, I understand that argument
23 and that's why I was wondering if the Court -- all
24 right, go ahead.

25 MR. GRASSO: And here's why I think it should

1 be looked at that way. A clear reading -- and maybe
2 this is why there aren't that many cases on it. A
3 clear reading, it says, "Federal crime of terrorism
4 means an offense that (A) is calculated to influence or
5 affect the conduct of the Government by intimidation,"
6 et cetera; and (B) is a violation of" all of these
7 other statutes, which are all the acts that can take
8 place.

9 So, really, the way I read 3142 applying
10 to this is that 2332b is required and this is what's
11 required. It's not just a question of -- and this is
12 why I think -- if the Court looks at it like this,
13 this is why I think 844(i) doesn't require a rebuttable
14 presumption by itself. It's because you need either a
15 shooting, an explosion, a fire, all these actual overt
16 acts which is a part of that list. But then in order
17 to make it a rebuttable presumption, you need the
18 motivation, and the motivation is terrorism,
19 intimidation of the Government. Just by itself,
20 burning a structure, burning a vehicle, burning
21 whatever, is not rebuttable presumption. You need that
22 terroristic motivation to bring it to a rebuttable
23 presumption.

24 THE COURT: And you think (A) needs to apply
25 also, the subsection (A) where it talks about the

1 intimidation or coercion, and then (B)?

2 MR. GRASSO: Because it says "and".

3 THE COURT: I know, I know, okay. And it's
4 not necessary to continue to stand.

5 MR. COAN: May I add --

6 THE COURT: Sure.

7 MR. COAN: Respectfully, we would disagree.
8 We don't disagree that a federal terrorism offense
9 creates a rebuttable presumption. In fact, that's what
10 is stated in 3142(e)(3)(B), "an offense under section
11 924(c), 956(a), or 2332b of this title."

12 We would argue that the federal crime of
13 terrorism as defined in 2332b creates a rebuttable
14 presumption under 3142(e)(3)(B). In this particular
15 case we're urging the Court to recognize a rebuttable
16 presumption under 3142(e)(3)(C), which simply states,
17 "An offense --

18 THE COURT: I'm sorry, I think just for record
19 purposes, I think you got the numbers -- you might want
20 to say that again. I think you got a number off in
21 your recitation there.

22 MR. COAN: 3142(e)(3)(C).

23 THE COURT: Okay.

24 MR. COAN: Which states, "An offense listed in
25 section 2332b(g)(5)(B) of Title 18, for which a maximum

1 term of imprisonment of 10 years or more is prescribed."
2 Included within that list, as the Court is aware, is
3 844(i).

4 THE COURT: All right. It would be nice had a
5 higher court gone through this. I've looked at it, my
6 law clerk has looked at it. Evidently counsel on both
7 sides has had at least some look at it. It does appear
8 to be a case of first impression. No court has had to
9 deal with this exact precise issue, i.e., is someone
10 charged with basically arson? And from what I've seen
11 in the Indictment, the charge is not arson of
12 Government property or an attempt to intimidate the
13 Government or coerce the Government or retaliate the
14 Government. This is an attack on a police station. I
15 read the Indictment as an attempt to commit insurance
16 fraud and other monetary type crimes.

17 So the question is, when you work your
18 way through all these numbers, in the end, when you get
19 to 2332b(g)(5) that's referred to in the detention
20 statute, the one that sets out the presumption, i.e.,
21 18 U.S.C. section 3142(e)(3), which sets out the
22 presumption, does that section refer to just
23 2332b(g)(5)(B) and that's just a mere listing of
24 statutes and they just chose that as a shorthand to do
25 it? Or as counsel for the Defendant says, logically,

1 because there is the conjunctive "and" right above it,
2 it has to be only applied to terrorism?

3 And I wouldn't be embarrassed if I was
4 counsel to make the argument either way, like both of
5 you had. I mean, there is nothing wrong with the two
6 arguments. In the end, though, I've got to decide.

7 The higher courts do teach me that when I
8 am looking at a statute and there is no guidance from
9 the higher courts on the precise issue, I should just
10 simply read the statute and the words as they are
11 written. There are two ways that this could have been
12 intended, but I'm not supposed to be looking at intent,
13 I look at the way it's written.

14 And the way it's written, although it may
15 just be for space saving, is that it shall be presumed
16 that no condition or combination of conditions will
17 reasonably assure the appearance of the person and the
18 safety of the community if there is probable cause to
19 believe the person committed an offense listed in
20 section 2332b -- that's a little "b" -- (g)(5)(B) of
21 Title 18, for which a maximum term of imprisonment of
22 10 years or more is prescribed.

23 If we look at that (B), that section (B)
24 that is just talked about, 844(i) is listed. It says
25 in parentheses "relating to arson and bombing of

1 property". The detention statute does not refer to
2 section A, it doesn't stop just at section 5. Reading
3 it as it's written, even though I might say to a law
4 clerk if they wrote that, "I want this written more
5 clearly," Congress wrote it and they intended it to
6 mean what they write, and so I'm going to read it that
7 way.

8 I think there is some additional weight
9 added by the fact that just above that in subsection
10 (B) of the detention statute, it does mention 18 U.S.C.
11 2332b, and it wouldn't make much sense to have that,
12 because 18 U.S.C. 2332b obviously would include the
13 federal terrorism statute, basically all of it,
14 including that subsection or what's listed there in
15 (g)(5)(A) and (B), or any of the offenses set out,
16 whereas (C) makes reference to a specific part of it,
17 i.e., that subsection (B). And, of course, that is the
18 section in the definitions. And so to save space,
19 Congress can pick that out, that's a listing in the
20 definitions, so I'm going to find that the presumption
21 does apply.

22 Now, there is also Fifth Circuit case law
23 authority that indicates that when there is a a full
24 hearing, like we're having right now, the presumptions
25 aren't as important as my final determination of all

1 the evidence. So don't anybody be sandbagged by the
2 fact that I just don't go off on the presumption
3 because now it's a determination.

4 But for purposes of setting the case out
5 and for purposes of the presumption having some weight,
6 as I understand the Fifth Circuit cases, it's not
7 exactly a bursting bubble presumption. But, on the
8 other hand, assuming Defendant puts in what they can
9 put in, in the response, I would then need to weigh it
10 all, including what the Government puts on and then
11 make my determination.

12 All right. So, as I understand it, in
13 Nevada the Government was not allowed, or evidently
14 their procedure is that just a proffer of evidence was
15 to be made. I gathered from both of your motions on
16 the Government's side that you weren't happy about
17 that. So now you have a chance. What evidence are you
18 going to put on?

19 MR. COAN: Thank you, Your Honor. If the Court
20 will allow, the Government would call Special Agent Jim
21 Reed.

22 THE COURT: Come on up, sir.

23 COURT CLERK: Do you solemnly swear that the
24 testimony you are about to give in this cause now in
25 hearing before the Court shall be the truth, the whole

Agent James Reed - Direct by Mr. Coan

24

1 truth, and nothing but the true, so help you God?

2 THE WITNESS: I do.

3 THE COURT: Go ahead, counsel.

4 MR. COAN: Thank you, Your Honor. Your Honor,
5 before I start with the examination, I just wanted to
6 point out for the record that I have provided some
7 contemplated exhibits in connection with Special Agent
8 Reed's testimony this afternoon. I provided a copy of
9 those exhibits to defense counsel and submitted a
10 courtesy copy for Your Honor's review and have a copy
11 of those six exhibits marked and prepared to tender
12 into the record as those come up during the course of
13 Special Agent Reed's testimony.

14 THE COURT: Okay.

15 MR. COAN: Thank you.

16 **SPECIAL AGENT JAMES REED, called by the Government**

17 **DIRECT EXAMINATION**

18 **BY MR. COAN:**

19 Q. If you would, state your name for the record,
20 please.

21 A. James Reed.

22 Q. And how are you currently employed?

23 A. I'm a Special Agent with the ATF.

24 Q. And where are you assigned?

25 A. Tyler, Texas.

Agent James Reed - Direct by Mr. Coan

25

1 Q. How long have you been with the ATF?

2 A. Since about January of 2014.

3 Q. And where were you before that?

4 A. I worked for the Department of Defense.

5 Q. In the course and scope of your employment with
6 the ATF, did you become involved in an investigation
7 concerning an individual by the name of Theodore R.
8 Wright?

9 A. Yes, sir.

10 Q. And Mr. Wright was indicted by a Federal Grand Jury
11 in the Eastern District of Texas in May of this year;
12 is that right?

13 A. Yes, sir.

14 Q. And the charged violations included financial
15 crimes; is that correct?

16 A. Yes, sir.

17 Q. And also charges related to arson; is that right?

18 A. Yes, sir.

19 Q. With respect to the evidence gathered as part of
20 your investigation, did that include interviews with
21 some of the other individuals charged in the Indictment?

22 A. Yes, sir.

23 Q. And did those individuals provide information
24 related to Mr. Wright's conduct?

25 A. Yes, sir, they did.

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1 Q. All right. And if you would, just explain a
2 little bit about how the information from those other
3 individuals was gathered in your investigation and what
4 those individuals told you?

5 A. So there were three other co-defendants. Two of
6 the other co-defendants, I actually interviewed in
7 person.

8 THE COURT: Wait, I thought you said that
9 there were three people -- that's what I got, there
10 were three co-defendants and they had already confessed
11 or something in one of your motions. You are saying
12 there are others still out there?

13 MR. COAN: I'm sorry if I misspoke or if I was
14 unclear, Your Honor. There are three defendants --
15 three other defendants.

16 THE COURT: Right.

17 MR. COAN: And two of those individuals
18 provided confessions. All three are at large at this
19 time.

20 THE COURT: After two of them confessed, you
21 let them go?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right, go ahead.

24 THE WITNESS: Two of those three co-defendants
25 confessed to me in person. Both of those co-defendants

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1 confessed multiple times, meaning on multiple different
2 days.

3 THE COURT: Were you undercover at the time or
4 did they know who you were?

5 THE WITNESS: No, they knew very well who I
6 was, sir.

7 THE COURT: All right, go ahead.

8 THE WITNESS: The reason for that, it was a
9 long-term investigation and arresting them would have
10 given rise --

11 THE COURT: Okay.

12 THE WITNESS: The co-defendants confessed to
13 their activity and to Mr. Wright's involvement in the
14 activity, including very detailed information on how
15 the schemes and criminal activity, which in the
16 Indictment is laid out. As well as speaking with them,
17 both of them provided evidence that showed messages
18 between themselves and Mr. Wright which detailed the
19 criminal activity, which is in the Indictment, sir.

20 BY MR. COAN:

21 Q. Special Agent Reed, as you are aware, the two real
22 issues in this particular setting are whether an
23 individual like Mr. Wright presents a flight risk; is
24 that correct?

25 A. Yes, sir.

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1 Q. And then whether, based on your investigation,
2 that you would conclude, subject to the Court's
3 determination that this individual, this particular
4 defendant, is a danger to others and to the community;
5 is that correct?

6 A. Yes, sir.

7 Q. On the issue of flight, if you would, explain to
8 the Court a little bit about what your financial
9 investigation showed regarding Mr. Wright's access to
10 cash and other proceeds.

11 A. I guess on the issue of flight risk, a hundred
12 percent so, the very essence of flight risk.
13 Mr. Wright has access and ownership of multiple
14 aircraft, helicopters, vehicles, large boats, large
15 amounts of money, including when I arrested Mr. Wright,
16 he had \$70,000 in a briefcase, along with two pistols
17 and a car title to a high-end vehicle.

18 Further, on flight risk, Mr. Wright is one of
19 a very small set people in the entire United States
20 who's so highly qualified to fly the aircraft he can
21 fly, which, as was mentioned earlier, involves
22 everything from a small plane to high performance jets,
23 fighter style jets, helicopters. He has access to his
24 own aircraft, multiple helicopters, other planes, and
25 also a wide network of people who are friendly with

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1 Mr. Wright and associates who also have aircraft.

2 He has a boat that he can sail to anywhere in
3 the world with, as well as the skill to sail that boat.
4 Extensive foreign travel with extensive foreign ties in
5 foreign countries. That's something that the majority
6 of Americans and people I see in my day-to-day work as
7 a Special Agent do not have.

8 He is known to use satellite phones and pay in
9 cash, both which would allow him to travel without a
10 digital or financial trail. He has numerous holding
11 companies, we found, and he's used these holding
12 companies to conduct illegal activity. He has bragged
13 to others that I have interviewed that he has foreign
14 corporations which would give him money outside of this
15 court or the United States jurisdiction.

16 In connection with the charges, he has
17 falsified documents and has instructed others to do the
18 same. I've interviewed people who have stated
19 Mr. Wright is prepared to live outside the United
20 States, outside the access of law enforcement.

21 And then also on flight risk, we have on
22 Mr. Wright's messages that he has direct business
23 dealings with the Zeta Mexican Cartel, who have a known
24 network and resources to flee and escape.

25 Q. Thank you, Special Agent Reed.

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1 You executed an affidavit in connection with
2 the proceedings today; is that correct?

3 A. Yes, sir, I did.

4 MR. COAN: The affidavit has been submitted
5 into the record, Your Honor. Because it was filed
6 under seal, I'm not certain of the docket number for
7 that particular document.

8 THE COURT: Okay, is it in this exhibit
9 notebook you provided?

10 MR. COAN: No, Your Honor, that was filed last
11 Thursday.

12 THE COURT: As part of what, your motion?

13 MR. COAN: In further support of the Motion to
14 Stay.

15 THE COURT: Was it filed separately from that?

16 MR. COAN: Yes, Your Honor.

17 THE COURT: Okay. I thought I read something
18 like that. Okay. Now, this is sealed. Have you
19 provided a copy to counsel?

20 MR. COAN: Yes, Your Honor.

21 THE COURT: Okay. Go ahead.

22 MR. COAN: Thank you, Your Honor.

23 BY MR. COAN:

24 Q. The Defendant was in possession of two firearms at
25 the time that you made the arrest pursuant to the

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1 arrest warrant issued in this case; is that correct?

2 A. Yes, sir.

3 Q. And do you know him to have been in possession of
4 additional firearms within the recent past?

5 A. Yes, sir, I do.

6 Q. And what did your investigation show with respect
7 to his providing firearms to other individuals,
8 especially prohibited individuals?

9 A. Mr. Wright has provided a firearm that was
10 purchased by himself to a convicted felon. I know this
11 because we have records that Mr. Wright purchased the
12 firearm. The firearm was taken from that felon. That
13 felon said Mr. Wright gave him the firearm. And I
14 think in the exhibit we have the text messages that
15 show Mr. Wright and that felon negotiating the purchase
16 of that weapon and the delivery of that firearm.

17 Further, I believe there are other exhibits,
18 which are the text messages between Mr. Wright and the
19 same felon in which Mr. Wright is attempting to obtain
20 a firearm from that felon over the interstate commerce,
21 being having a gun mailed through FedEx. And that even
22 in the same conversations on the first gun I took off
23 the felon, Mr. Wright is asking that felon if he's
24 interested in purchasing a high-powered weapon,
25 including armor piercing ammunition.

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1 Q. During the course of your investigation, did you
2 come upon information indicating that this Defendant
3 had made threats of violence to other individuals?

4 A. Yes, sir. I interviewed an individual a couple of
5 days ago. Another Special Agent also interviewed the
6 same individual separately. That individual, who is
7 not part of the conspiracy or is not part of the
8 Indictment, indicated that Mr. Wright threatened to
9 kill him a couple of weeks ago. Specifically, he
10 mentioned things around putting a bullet in this
11 person's head.

12 I've also interviewed another individual
13 associated with this conspiracy who said Mr. Wright has
14 made threats in the past.

15 Q. Let's talk about the -- let's talk about the
16 individual who you spoke to who claimed to have
17 received a threat from Mr. Wright within the recent
18 past. What was the nature of the relationship between
19 this individual and Mr. Wright?

20 A. This individual reports a business relationship
21 with Mr. Wright and that there was a good business
22 disagreement and Mr. Wright then threatened to kill him
23 over that business disagreement.

24 Q. All right, did you have opportunity to review the
25 Defendant's response brief that included various

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1 factual contentions responding to your affidavit and
2 some of the factual contentions made in the
3 Government's motion?

4 A. Yes, sir, I did.

5 Q. Did you have opportunity to review the exhibits
6 that were provided along with that submission to the
7 Court?

8 A. Yes, sir.

9 Q. All right. And after reviewing that, in response
10 to that information, did you identify some specific
11 documents gathered during the course and scope of your
12 investigation which you believe rebut some of those
13 contentions made by the defendant?

14 A. Yes, sir.

15 Q. Okay. And those have been marked for
16 identification purposes as Exhibits 1 through 6; is
17 that correct?

18 A. Yes, sir.

19 Q. Okay, so let's walk through those.

20 Now, one of the contentions by the Defendant
21 is that he did not have access to airworthy aircraft.
22 Do you recall that?

23 A. Yes, sir.

24 Q. All right, and I'm going to refer you to Exhibit 1
25 and ask you to identify that.

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1 THE COURT: For clarity in the record, since
2 the Defendant may have some exhibits also, do you want
3 to call this Government's 1?

4 MR. COAN: Certainly, Your Honor.

5 THE COURT: Otherwise, we wind up with two 1s.
6 So each of these that you're talking about will be
7 Government's 1, 2, 3, and so forth.

8 Now, the copy that you provided me in my
9 book is not marked at all. And so, if you're putting
10 these in the record, you need to be sure there is a
11 label or mark on them. They don't all have to be
12 marked, but I was just noticed that mine aren't, so I
13 want to be sure.

14 COURT CLERK: They have stickers.

15 THE COURT: All right.

16 MR. COAN: Your Honor, I have a notebook with
17 the stickers and they are marked as Government's 1
18 through 6 and I'll tender those. If it's convenient,
19 I'll just tender them orally and then I'll physically
20 hand them to the courtroom deputy.

21 THE COURT: That's fine. We'll go through
22 them that way. But they are marked Government's, so
23 let's refer to them as Government's to keep the record
24 clear later on when the Defendant's show up.

25 MR. COAN: Okay.

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1 THE COURT: Okay?

2 MR. COAN: I will. Thank you, Your Honor.

3 THE COURT: Go ahead.

4 BY MR. COAN:

5 Q. If you would, Special Agent Reed, if you would
6 identify what's then been marked as Exhibit 1.

7 THE COURT: Government's Exhibit 1?

8 MR. COAN: Government's Exhibit 1, I'm sorry,
9 Your Honor.

10 A. Government Exhibit 1, the first page shows the
11 multiple aircraft registered and owned and controlled
12 by Wright. The first is registered under his name, his
13 main company, which shows multiple aircraft, including
14 multiple jets, helicopters and other planes. On the
15 next page is two other aircraft. One, which is the
16 Gates Learjet 35, which is specifically mentioned in
17 the Indictment, that is owned by another holding
18 company controlled and associated with Mr. Wright. And
19 the other is another jet, 805NA, a former NASA jet,
20 also controlled and associated with Mr. Wright.

21 Q. Let me interrupt just briefly. So, just for record
22 purposes, according to the FAA, Federal Aviation
23 Administration records, specifically the FAA Registry,
24 there are 14 aircraft registered to Mr. Theodore R.
25 Wright?

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1 A. No, I think that it's a little bit less than that.
2 There are a bunch of N numbers registered, but there
3 are at least 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
4 registered to him directly, and then another which is
5 under another holding company, which he's a co-owner
6 of, and that was on the next page N316MW.

7 Q. And again, just to clarify for the record, so
8 Government's Exhibit 1, page 2 of that exhibit, is FAA
9 Registry for a company called NASA 805 LLC; is that
10 correct?

11 A. Yes, it is.

12 Q. All right. And Mr. Wright has ownership interest,
13 is a co-owner of that entity; is that correct?

14 A. It will be fair to say he's definitely associated
15 with that company and has access to that aircraft.

16 Q. Okay. And there are two aircraft that are
17 registered to this NASA 805; is that correct?

18 A. That is correct.

19 Q. All right, I'm sorry, continuing on, there are
20 additional records from the FAA in Government's Exhibit
21 1; is that correct?

22 A. Yeah, the next was the FAA Registry for N316MW.
23 On the next page is the ownership documents for that
24 LLC provided to the FAA, which shows Mr. Wright as a
25 participant and an owner of that LLC. And the next

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1 page is part of the same documents.

2 And then the next page shows that that plane
3 flew on July 2, 2017. Specifically, it flew from the
4 airport, Texas Gulf Coast Regional, which I'm familiar
5 with is one of Mr. Wright's bases of operations. He
6 had a hanger out there. So here's an aircraft that he
7 has ownership in that has flown. So the argument he
8 has no access to airworthy aircraft, this aircraft flew
9 on July 2, 2017.

10 The next page is another showing that N285RG,
11 which is a helicopter owned by Theodore R. Wright
12 Enterprises, flew on June 20, 2017, another aircraft
13 under the control of Mr. Wright and that flew just a
14 couple of days ago.

15 Q. Okay, so that's responding to the Defendant's
16 contention that he does not have access to aircraft and
17 that those aircraft are not airworthy; is that right?

18 A. Yes, sir.

19 Q. All right. One of the other contentions made by
20 the Defendant is that he doesn't have any ties to or
21 dealings with non-extradition countries. And just
22 briefly, what is a non-extradition country?

23 A. Non-extradition countries, in my research, are
24 countries that do not have formal extradition treaties
25 with the United States Department of Justice or the

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1 United States Government. It's frequently talked to in
2 the criminal world as countries you could go that would
3 make it hard for the United States to get you back if
4 you fled there.

5 Q. Okay. Exhibit 2, Government's Exhibit 2, if you
6 would, identify that for the Court.

7 A. Exhibit 2 is one example. It's taken from Facebook
8 in which Mr. Wright is talking to another individual.
9 What's important about here is he's bragging about
10 having a meeting with an individual in Algeria and
11 specifically having a meeting with him. And that
12 individual is in a country, Algeria, which from my
13 research does not have an extradition treaty and is
14 notorious for corruption.

15 Further, in their own motion, they discuss
16 Mr. Wright's business dealings -- or future business
17 dealings with the country of Guinea, a country that's
18 also without an extradition treaty and notorious for
19 its corruption.

20 Q. One of the other contentions made in the
21 Defendant's brief is that he denies using private
22 aircraft to avoid detection and specifically denies
23 failing to file flight plans. Do you recall that
24 contention?

25 A. Yes, sir.

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1 Q. All right, if you would, identify for the record
2 what's been marked as Government's Exhibit 3.

3 A. This first is a Facebook posting. In their
4 contention they make that arrival in foreign countries
5 by private plane is a harsher custom standard. This
6 is Mr. Wright talking to an individual about the VIP
7 treatment that you receive when you fly in on a private
8 jet. Specifically, it's just a quick stamp, very
9 little inconvenience, and saying it opens doors for you.

10 Further on the flight plans, while it is
11 practice from my talking to the FAA to file formal
12 flight plans, especially for jets, I know of many or a
13 couple of incidents specifically where Mr. Wright did
14 not file a flight plan. N18FM, the jet that is subject
15 to the Indictment that was burned, flew from Uvalde,
16 Texas, eventually landing in Athens, Texas. I
17 contacted both the FAA and the Coast Guard Air Marine
18 Operation Centers and they reported that no formal
19 flight plan was filed.

20 Further, N805NA, the large jet, I checked on
21 the flight plan there and there was only a flight plan
22 that was from Canada to where it flew. It was going to
23 fly to France. And saw no other flight plans between
24 when it arrived from NASA to Houston and how it got
25 from Houston area, where I physically saw the jet, to

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1 Canada.

2 Further, this is a picture taken from a phone
3 of a co-conspirator which shows Mr. Wright's extreme
4 piloting skills. It means he doesn't even need to land
5 at a formal airport. This is a picture of him in an
6 aircraft conducting operations on a grass style runway.
7 This means he could easily land in any remote area
8 outside of the influence of the United States
9 Government and not have to go -- and would be easily
10 bypassed because there is no customs people in the
11 middle of a foreign field and passport controls, and he
12 has the skills and ability to do so.

13 Q. One of the other contentions made by the Defendant
14 in his brief in opposition was that he did not have
15 sailing skills that would be of the type that would
16 present or contribute to a flight risk. Mr. Wright's
17 counsel has clarified the record somewhat on that
18 point. But your investigation did confirm that
19 Mr. Wright is, in fact, able to sail or captain or
20 whatever the appropriate characterization would be.
21 He can operate a sailing vessel; is that correct?

22 A. Yes, sir. As this exhibit shows, this is from his
23 own charity web page, saying he's an avid sailor and
24 diver and that he lived aboard and cruised a sailboat
25 for nearly two years.

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1 On the next page we see some Facebook
2 messages. Through these, he brags about his sailing
3 skills, including to countries that are non-extradition,
4 hostile to the United States. As you go through, you
5 see Cuba. And he also talks about very comfortable
6 sailing all across oceans and living on the boat. But
7 this is perhaps most important because I've interviewed
8 witnesses who said that Wright has claimed that he has
9 planned to operate the yacht he owns outside the areas
10 of law enforcement in order to specifically bypass law
11 enforcement and customs.

12 He has equipped -- he has told others that he
13 has equipped the boat that he has, which is a large
14 hundred foot-plus boat, to land a helicopter on and
15 this could easily facilitate escape from a helicopter
16 from the land to the ocean, which he would not be
17 subject to -- it would be very hard for law enforcement
18 to reach him if he was in the open water.

19 Q. All right, just to clean up the record a little
20 bit, so what you're referencing has been marked as
21 Government's Exhibit 4; is that correct?

22 A. Yes.

23 Q. And that consists of five pages. And the first two
24 pages are printed out from a website with the address
25 of *AroundTheWorldForLife*, all one word, .org; is that

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1 correct?

2 A. Yes, sir.

3 Q. All right, and this is profile on that website of
4 T.R. Wright; is that correct?

5 A. Yes, sir.

6 Q. Okay. And those are the first two pages of the
7 exhibit. And then the last three pages, if you would,
8 just identify the source of those pages.

9 A. These are Facebook messages from Mr. Wright to
10 various recipients discussing his sailing abilities and
11 boating skills, as well as the countries he visited
12 while sailing those vessels.

13 Q. All right, on the issue of danger to others in the
14 community, one of the topics that has been discussed
15 already in your testimony is providing a firearm to a
16 felon. And if you would, just identify for record
17 purposes what is Government's Exhibit 5?

18 A. Government's Exhibit 5 is three strings of
19 messages. They are not in chronological order, but
20 the first string starts on December 1, 2016. This is
21 when Mr. Wright is talking with a co-conspirator, a
22 convicted felon, and purchasing a firearm for him.
23 They discuss purchasing the firearm. Mr. Wright, as I
24 mentioned earlier, offers to sell another firearm to
25 this individual, including armor-piercing ammunition.

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1 Then later on in the string they agree how Mr. Wright
2 coordinates the delivery of the firearm to this
3 individual. And as I stated earlier, I recovered the
4 firearm from this individual, a felon. This individual
5 told me he received the firearm from Mr. Wright, and I
6 verified that Mr. Wright did purchase the firearm.

7 The next string begins from on or about June
8 18, 2015, and Mr. Wright is coordinating the purchase
9 of a firearm from this individual, a felon. He
10 specifically says he can't buy anything in Vegas, he
11 has to be a Nevada resident and register in Clark
12 County, and he wants this individual, a felon, to ship
13 it to him. And he even says: If they ask you what's
14 inside the box, tell them it's not a firearm.

15 Then the following section is another message.
16 This is on or about February of 2016 when Mr. Wright is
17 talking about that he has five rifles, handguns, and
18 15,000 rounds of ammo on the boat, and that he also has
19 four other pistols in other locations.

20 You know, throughout these messages, you see
21 that Mr. Wright has violated -- or evidence shows that
22 Mr. Wright has violated multiple federal firearms laws,
23 as well as has access to weapons, which to me is
24 especially concerning since I interviewed an individual
25 who says that Mr. Wright threatened to kill him over a

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1 business deal.

2 Q. Also within the Defendant's submission, there was
3 a denial of any connection to or dealings with the
4 Mexican cartel Los Zetas. Do you recall that
5 contention?

6 A. Yes, sir.

7 Q. All right. And if you would, identify what has
8 been marked as Government's Exhibit No. 6.

9 A. This is a text message string from the same
10 co-conspirator. The defense made an assertion that
11 they were joking. I read this very clear is he's not
12 joking. In fact, he says -- and this is Mr. Wright's
13 phone -- "Meeting with the Zeta and drug cartel and
14 exchanging \$30,000 for some aircraft logbooks they are
15 holding hostage. Long story, but that's the basic gist
16 of it." They discuss what they are getting into.

17 Mr. Wright points out the news article
18 referring to the seizures of those helicopters. Even
19 at the end he says, "I would still pack, but I do
20 everywhere", referring that the co-defendant or
21 co-conspirator bring a weapon to do business with these
22 individuals.

23 I am aware that this helicopter was seized
24 from the Zeta drug cartel and this appears to be very
25 clear to me that Mr. Wright was negotiating directly

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1 with the Zeta drug cartel for these logbooks, which
2 were not seized by U.S. law enforcement and in
3 possession of what's been reported to me as Zeta drug
4 cartel. In his own words, text messages says he's
5 meeting with them and they have a serious discussion.
6 My read of this is he's not joking at all.

7 And the person interviewed, I've interviewed
8 the person who Mr. Wright is talking to in text
9 messages, and he did not believe they were joking,
10 either. And in my understanding and work, the Zeta
11 drug cartels are the most notoriously violent drug
12 trafficking organizations in the world with
13 nation-state level access to weapons and technology.

14 MR. COAN: Your Honor, I would tender into the
15 record Government Exhibit Nos. 1 through 6 if there is
16 no objection.

17 THE COURT: It's my understanding that the
18 same Rules of Evidence that would apply in trial don't
19 apply in this kind of hearing, and obviously admission
20 for the purpose of this hearing only doesn't make them
21 admissible anywhere else. Are there any objections?

22 MR. GRASSO: No, Your Honor.

23 THE COURT: All right. Then with those
24 caveats, I will admit them for consideration by the
25 Court for purposes of this hearing only.

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1 MR. COAN: Thank you, Your Honor.

2 THE COURT: That would be Government's Exhibit
3 1 through Government's Exhibit 6.

4 BY MR. COAN:

5 Q. Special Agent Reed, does Mr. Wright live in the
6 Eastern District of Texas?

7 A. Not to my knowledge.

8 Q. Based on your investigation, does he have any ties
9 to the Eastern district of Texas?

10 A. Not to my knowledge.

11 Q. Do you recall what address Mr. Wright provided to
12 the United States Marshal Service following his arrest
13 in connection with this case?

14 A. I believe that was the Kemah address is what I saw.

15 THE COURT: I'm sorry, what address?

16 THE WITNESS: It's down in Kemah, Cien Road.

17 THE COURT: What state?

18 THE WITNESS: Texas, in Kemah.

19 THE COURT: Oh, Kemah, okay.

20 BY MR. COAN:

21 Q. Do you recall what the address is or you just
22 recall the road and the city?

23 A. I do not recall off the top of my head.

24 Q. But you recall an address in Kemah, Texas that was
25 provided to the Marshal Service; is that right?

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1 A. Yes, sir.

2 Q. All right. And are you familiar with that address
3 as part of your investigation?

4 A. Yes, sir.

5 Q. And what is that, is that a house?

6 A. No, sir.

7 Q. What is that?

8 A. It's an office building in which there's various
9 offices.

10 Q. Okay. Again, to your knowledge, based on your
11 investigation, does Mr. Wright have a home somewhere in
12 the United States?

13 A. To the best of my knowledge, Mr. Wright does not
14 himself have a permanent home in the United States.
15 Anywhere that I've been able to see where he
16 basically -- you know, your typical home. From talking
17 to people, Mr. Wright frequently lives in hotels. In
18 fact, we arrested him at a hotel. On the yacht boats
19 and different places off and on. I guess that's the
20 best of my knowledge. Trump Towers would probably be
21 the closet thing he has to a home.

22 Q. And that's the Trump Hotel in Las Vegas, that was
23 where he was arrested in connection with this case; is
24 that right?

25 A. Yes, sir.

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1 Q. And were you able to determine how long Mr. Wright
2 had been staying at the hotel at the time of your
3 arrest?

4 A. I believe he had been there for that time for
5 around a month, I believe that's what we heard from the
6 people who indicated how long he had been renting there.
7 But I do know he had previously been there in the past,
8 but had just recently come to Las Vegas.

9 THE COURT: Wait. You said you knew he had
10 been there in the past, but just recently came to Las
11 Vegas. That's contradictory. What do you mean?

12 THE WITNESS: It's been a place he's used off
13 and on through my investigation as a residence of sorts.

14 THE COURT: Okay. So he had been there
15 previously, but this day it had been about a month is
16 what you understood?

17 THE WITNESS: Yes, sir.

18 THE COURT: Okay, go ahead.

19 BY MR. COAN:

20 Q. And I believe you mentioned earlier, during your
21 investigation, you were able to determine that
22 Mr. Wright has traveled internationally a good bit over
23 the past five, six years; is that right?

24 A. Yes, sir.

25 Q. What's the frequency of that international travel,

Agent James Reed - Cross by Mr. Grasso

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1 if you were able to determine any type of pattern
2 during your investigation?

3 A. It would be fair to say it's much more extensive
4 than your average American and includes both commercial
5 flights and then also private airplane flights to
6 Europe and the Near East -- Turkey, different places.
7 Basically mainly to Europe.

8 Q. And what were you able to determine about the
9 length of stay on those trips that you are aware of
10 that came up during the investigation. Were they

11 extended stays or a few days or what were you able --

12 A. I would say it varies, but Mr. Wright, it's much
13 more than the one-off vacation that the average person
14 may take or the every-now-and-then business trip that
15 your average individual would deal with. Mr. Wright,
16 from what we've been able to put together, sometimes
17 will, you know, return to the United States and in a
18 couple of days later fly back over and do it again.
19 It's very frequent travel to overseas.

20 MR. COAN: Your Honor, I'll pass the witness.

21 THE COURT: Counsel?

22 MR. GRASSO: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 **BY MR. GRASSO:**

25 Q. Agent Reed, my name is Gabe Grasso. I represent

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1 Mr. Wright in this case, along with Carlo D'Angelo, and
2 I'm going to ask you some questions and try to stay
3 with sort of the issues that you touched upon in your
4 direct examination.

5 A. Yes, sir.

6 Q. Let's talk about the three co-defendants.
7 Obviously, I know the Government is trying hard not
8 to -- or obviously just doesn't want the names to come
9 out. That's why the Indictment is still sealed. But
10 let's talk about the -- you indicated that one of these
11 co-defendants is a convicted felon?

12 A. Yes, sir.

13 Q. Is there a co-defendant that's associated with
14 Hawaii?

15 A. Yes, sir.

16 Q. Okay, is that co-defendant also a convicted felon?

17 A. Yes, sir.

18 Q. Is he a registered sex offender?

19 A. Yes, sir.

20 Q. Okay. So there is one co-defendant who is a
21 convicted felon and there is another co-defendant who
22 is also not only a convicted felon, but a registered
23 sex offender in Hawaii?

24 A. Yes, sir.

25 Q. Okay, and these are both people who you have talked

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1 to in this case?

2 A. Yes, sir.

3 Q. These are the two people who confessed?

4 A. Yes, sir.

5 Q. And these two people are the people who are
6 providing you information that you've related to the
7 Court?

8 A. Yes, sir.

9 Q. Okay.

10 A. Well, what do you mean by -- I'm sorry, I mean,
11 provided information, yes, that was used, that I talked
12 about earlier in the confessions, yes, sir.

13 Q. You are a federal agent, you have these people who
14 are both convicted felons, one of them is a registered
15 sex offender, and you are asking them questions and
16 they are giving you answers, and some of those answers
17 you related to the Court?

18 A. Yes, sir.

19 Q. Now, with respect to the individual in Hawaii, he's
20 related to one of the counts in the case; right?

21 A. Yes, sir.

22 Q. Okay. When you arrested the other individual, not
23 the Hawaii person -- and we'll call him R.F.; is that
24 fair?

25 A. Yes, sir.

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1 Q. Okay, R.F.. When you arrested R.F., that sort of
2 like -- was that a raid situation where you sort of
3 came into his house?

4 A. Yes, sir.

5 Q. Okay. When you came into his house, did you
6 discover an amount of drugs in the house?

7 A. No, sir.

8 Q. There were no drugs in the house?

9 A. My recollection is there might have been residue,
10 but that was what we -- that was all I could recall was
11 maybe minor amounts of residue.

12 Q. Did somebody else handle the drug part of it, maybe
13 you didn't have all the information?

14 A. My knowledge is -- I did not search the house, but
15 the people who searched said there was not enough drugs
16 to take.

17 Q. Okay.

18 A. Which in my experience, doing drugs as one of my
19 main jobs, it means it was probably a residue or tiny,
20 tiny bit that you couldn't probably even package up.

21 Q. But you're not sure?

22 A. I mean, I'm fairly certain there was no more than
23 that, a small amount of residue.

24 Q. And this individual, at that time when you spoke to
25 him, he confessed to his involvement -- allegedly

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1 confessed to his involvement in this conspiracy?

2 A. Yes, sir.

3 Q. And he wasn't arrested?

4 A. He was not arrested.

5 Q. And at this time do you know where he is?

6 A. I do not.

7 Q. Okay. And the other person in Hawaii, he confessed
8 allegedly to the conspiracy and he was not arrested?

9 A. Yes, sir, that's correct.

10 Q. Do you know where he is?

11 A. I believe he's still in Hawaii.

12 Q. Okay. Let's talk about these points that you made
13 with respect to Mr. Wright's ownership of planes and
14 how you are contesting or the Government is contesting
15 that Mr. Wright indicated in his response that he
16 doesn't have access to any airworthy aircraft or any
17 aircraft at this time; correct? That's what we're
18 talking about?

19 A. Yes, sir.

20 Q. These planes that are on the list in I guess it's
21 Exhibit 1, it's an FAA Registry.

22 THE COURT: Government's Exhibit 1?

23 MR. GRASSO: Government's Exhibit 1, yes.

24 Well, in Government's 1, Your Honor, I'm a little

25 confused. Is Government's 1 -- it says 1, 2, 3, 4, all

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1 through 6, is that how we're going to call it, or is
2 this whole thing Government's 1?

3 THE COURT: I understood each of those
4 exhibits was 1, 2, 3, 4, 5, and 6. Each one of them
5 have Government in front of it because should you want
6 to put in Defendant's, I don't want the record saying 1,
7 1, 2, 2.

8 MR. GRASSO: Understood. So Government's 1.
9 We're talking about Government's 1. Thank you, Your
10 Honor.

11 THE WITNESS: Yes, sir.

12 BY MR. GRASSO:

13 Q. Although it says here, "Updated each federal
14 working day at midnight," do you know actually how the
15 update system works with these tail numbers and the
16 aircraft?

17 A. I'm obviously not an expert on FAA, but my
18 understanding in talking with them is that you go
19 through a process, you fill out -- you send documents
20 to the FAA, it goes through the process. When they
21 have finished their update process, they post this, you
22 know, for the public to look at, sir.

23 Q. So, in other words, this is a situation where, if
24 somebody sells a plane or a plane changes hands, there
25 is a paperwork and licensing and whatever process that

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1 takes place, and once that's finished, then it's
2 updated on the FAA website?

3 A. That's my understanding, yes, sir.

4 Q. And you understand that Mr. Wright's business is to
5 buy and sell aircraft?

6 A. Yes. Well, that's one of his things I know he does
7 conduct, yes, sir.

8 Q. Right, and he conducts -- obviously, he's not an
9 aircraft -- for lack of a better term, it's not like he
10 has these in a giant hangar, that he collects these
11 planes. His business is to buy a plane, sell it -- buy
12 at auction like we showed with the helicopter that was
13 bought from the Treasury Department; right?

14 A. My understanding of Mr. Wright's involvement is he
15 does broker some airplanes, but a lot of the other
16 airplanes he does keep for himself or puts in another
17 holding company, which he has a co-interest in.

18 Q. So you're saying that he doesn't buy and sell all
19 these airplanes?

20 A. He does buy and sell airplanes. But as you
21 mentioned, you're saying does he sometimes resell them?
22 Yes. Does he sometimes not resell them? The answer is
23 also yes to that.

24 Q. Okay, so let's talk about No. 1, the Eurocopter
25 France. To your knowledge, do you understand -- do you

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1 understand that he sold that airplane? He sold that
2 helicopter?

3 A. I have not seen FAA documentation on that sale.

4 Q. Well, like you said, he buys and sells every day,
5 so there is a process of buying and selling and a
6 process of paperwork. You don't have any -- let me ask
7 it this way: You don't have any information that tells
8 you that he hasn't sold that helicopter?

9 A. I have no information that tells me he has not sold
10 helicopters. I have no information that he has sold
11 the helicopter.

12 Q. Sold it or not sold it?

13 A. I have -- I have no information that the helicopter
14 has been sold to anyone.

15 Q. And you don't have any information that it hasn't
16 been sold?

17 A. That's correct, only that the FAA has it registered
18 to Theodore Robert Wright Enterprises, Inc.

19 Q. Correct. He purchased that helicopter months ago.
20 To your knowledge, have you been able to -- this is --
21 we're just getting started with this investigation. To
22 your knowledge, is it possible that he sold this
23 helicopter?

24 A. It is certainly possible that that helicopter has
25 been sold.

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1 Q. Okay, the Cessna 550, same question: Could be
2 sold; correct?

3 A. Yes, it could have been, sure.

4 Q. Do you have -- instead of going through each one,
5 do you have any information to show that he has current
6 access to any of these aircraft, apart from just the
7 FAA registration?

8 A. I would say yes, sir, I do on --

9 Q. We'll talk about that one on the next page.

10 A. On this page, yes, sir, I do. Currently, there is
11 a dispute over these helicopters. But from my
12 understanding on those, he still has claims on those or
13 has associates that he would have access to those
14 helicopters.

15 Q. But the dispute has to do with buying and selling;
16 right? There is people who are willing to buy it and
17 there may be a dispute and that's the state of these
18 aircraft?

19 A. To my knowledge -- yes, to my knowledge, those
20 aircraft, some of the -- I can't say exactly which
21 Gazelles right off the top of my head, but some of the
22 Gazelles are in the United States and, you know, there
23 is a dispute over the aircraft, but Mr. Wright would
24 have access to those aircraft if he had possession of
25 them.

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1 Q. Well, okay. So you don't have any information that
2 he has possession of --

3 A. He does not have possession of the helicopters at
4 this time, but he could get possession of those
5 because, basically, they're -- like you mentioned, they
6 are not in his physical -- it's not like a car you
7 drive around, they are at an airport somewhere. He
8 just has to go and show up and get the aircraft.

9 Q. He's probably a good enough pilot that he could go
10 to an airport right here, the closest airport, and
11 maybe steal an airplane, how about that?

12 A. He easily could do that, yes.

13 Q. He easily could do that?

14 A. Yes.

15 Q. Okay. So it's not a question of whether he owns
16 these planes or not. He could swipe a plane any
17 minute?

18 A. Yes, sir, and that's why he's the most extreme
19 flight risk I've ever seen. He could get in any
20 aircraft, whether it be a small prop plane to a high
21 performance jet. I believe he even has almost
22 commercial certification, fighter jets, and could, yes.
23 And that's why it is such a -- he is such an
24 extraordinary flight risk.

25 Q. Exactly, that's why he's sitting right here today;

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1 right?

2 A. What do you mean?

3 Q. He is such a flight risk because he's sitting right
4 here?

5 A. He is an extreme flight risk, sir.

6 Q. But the guy that you -- R.F., one of the defendants
7 in this case that you had custody of, where is he?

8 A. I do not know, sir.

9 Q. He's a flight risk; right?

10 A. No, not in the same way Mr. Wright is.

11 Q. Well, who's here and who is not here?

12 I'll withdraw the question.

13 So, in other words, there is one plane, of all
14 these planes that we're talking about -- okay, for
15 example, like the Gates Learjet on the next page, you
16 know that plane is in France; right?

17 A. To my best -- yes, the last time I was able to
18 track that plane, it was in France

19 Q. Okay. And the Grumman American that's right below
20 that, do you know that that plane is basically sitting
21 in an airport in a state of disrepair, it's not
22 airworthy? Do you know that?

23 A. I believe it's airworthy since it has flown and has
24 made a flight plan to fly overseas.

25 Q. When was this?

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1 A. This was probably a couple of months ago.

2 Q. Okay. So, since then, do you have any information
3 that that plane could have been damaged and is actually
4 not airworthy right now?

5 A. That's big news to me, sir.

6 Q. Okay. Now, you talk about the Cessna 500, this
7 Checkmate Cessna 500 on the next page; right?

8 A. Yes, sir.

9 Q. This Checkmate company, there's co-owners, Martin
10 Wolf and Theodore Robert Wright?

11 A. Yes, sir.

12 Q. Okay. And then the flight plan, it flew from New
13 Orleans to Jackson, Texas; right?

14 A. Yes, sir.

15 Q. And that plane flew on Sunday, July 2nd?

16 A. That's what the information shows, yes, sir.

17 Q. Do you know where Mr. Wright was Sunday, July 2nd?

18 A. No, sir.

19 Q. Okay. So do you know whether -- we're talking
20 about last weekend; right?

21 A. Yes, sir.

22 Q. You're actually telling the Court that Mr. Wright,
23 who's on an electronic monitor as he sits right here,
24 that you don't know -- that you don't think you would
25 have known if Mr. Wright had gotten into a plane in New

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1 Orleans, Louisiana and flown it to Jackson, Texas?

2 A. I never made a contention Mr. Wright flew that
3 plane.

4 Q. Okay, so apparently somebody else is in possession
5 of this plane?

6 A. Someone else has access to the plane, as well.

7 Q. Most likely Mr. Martin?

8 A. Mr. Wolf, yes, sir.

9 Q. Mr. Wolf, Martin Wolf; right?

10 A. Yes, sir.

11 Q. Okay, his partner?

12 A. Yes, sir.

13 Q. Do you know what the arrangements are between
14 Mr. Wright and Mr. Wolf regarding who actually owns
15 that plane?

16 A. I do not. The only documentation I have is that
17 Mr. Wright, according to the FAA, has a control in that
18 aircraft.

19 Q. In the corporation?

20 A. Yes, sir.

21 Q. Right?

22 A. Yes, sir.

23 Q. In the corporation that owns that aircraft?

24 A. That's what the documents show.

25 Q. Mr. Martin is flying it around the southern United

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1 States right now, just a couple of days ago?

2 A. Yes, sir.

3 Q. Okay. And do you understand that Mr. Wright is
4 required by Pretrial Services to remain in the District
5 of Nevada at all times unless he's coming to court here?

6 A. Yes, sir.

7 Q. And he's on an electronic monitor for that?

8 A. Yes, sir.

9 Q. Do you know how that works? For example, if he
10 were to either cut it off or go somewhere else, they
11 would find out right away?

12 A. To my research, that's not true, sir. In fact,
13 I've researched many cases in which someone has removed
14 their monitor. A famous case recently was Mr. Lyle
15 Jeffs. He removed his GPS tracker without severing the
16 connections that would alert officials. They say he
17 likely used olive oil, fairly easy to do. Research
18 shows it's very easy to do, take it off. I'm aware of
19 that.

20 I'm also aware of cases where you can remove
21 it and it takes some time for the law enforcement to
22 respond. I've actually researched Pretrial Services.
23 They say it would take some time. The extreme risk of
24 Mr. Wright is he could remove his GPS monitor within
25 minutes, be it Las Vegas Airport; and within an hour or

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1 about an hour or so time frame be in Northern Mexico,
2 way before any law enforcement would ever be able to
3 respond.

4 Q. Do you know if Mr. Wright has any aircraft at
5 North Las Vegas Airport?

6 A. I do not know, no, sir.

7 Q. Do you know the route that he took to get here
8 today?

9 A. No, sir.

10 Q. Obviously, you saw him in Las Vegas; correct?

11 A. Yes, sir.

12 Q. And now he's here, so he must have gotten here
13 somehow?

14 A. Yes, sir.

15 Q. And you know he drove here?

16 A. Yes, sir.

17 Q. Do you know that he drove on the 40 instead of the
18 10 so he wouldn't go near Mexico, so that nobody would
19 suspect that he might be going to Mexico?

20 A. No, sir, I did not know that.

21 Q. That he made that drive like that?

22 A. No, sir, I did not know that.

23 Q. This helicopter, the last page of Exhibit 1,
24 apparently at some point -- it's a helicopter that's
25 owned by a company -- well, it's listed as having been

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1 owned by Mr. Wright, but do you know if it's been sold
2 to a tour company?

3 A. I do not know that, sir.

4 Q. Do you have any information that Mr. Wright flew
5 this helicopter on Tuesday, June 20th?

6 A. No, sir, I do not.

7 Q. Okay. And it seems to be a very short little
8 flight, correct, didn't really go anywhere?

9 A. Yes, sir.

10 Q. Okay, let's talk about the -- you talked about
11 firearms in your direct examination. With respect to
12 the firearms, do you know that Mr. Wright has a Texas
13 concealed carry permit?

14 A. Yes, sir.

15 Q. And in fact, you came to my office in Las Vegas to
16 return the two firearms which were seized when he was
17 arrested?

18 A. Yes, sir, I returned them to you.

19 Q. And you understood that those firearms were
20 returned to my office because it was my job as officer
21 of the Court to collect all the firearms that
22 Mr. Wright had and keep them for safekeeping while this
23 case is pending?

24 A. Yes, sir.

25 Q. Okay. Did you see any documentation that I

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1 provided to the Court listing the firearms and saying
2 that they were handed over to me on a certain day?

3 A. No, sir.

4 Q. Okay.

5 MR. GRASSO: Well, Your Honor, I could submit
6 that, correct, as an exhibit?

7 THE COURT: If you want.

8 MR. GRASSO: May I have a minute, Your Honor?

9 **[Pause]**

10 BY MR. GRASSO:

11 Q. Oh, let me just put it this way: Did you read the
12 conditions of the Pretrial Services Report?

13 A. No, sir. I do know he's not able to possess
14 firearms like we discussed.

15 Q. Right. And I'm reading from the Pretrial Services
16 Report. It says that -- let me find it -- No. 9,
17 "Defendant shall refrain from possessing a firearm,
18 destructive device, or other dangerous weapons, and
19 any firearms shall be removed from the defendant's
20 possession within 24 hours of release from custody,
21 and the defendant shall provide written proof of such
22 to Pretrial Services or the supervising officer."

23 Right?

24 A. Yes, sir, that's what it says.

25 Q. So the 24 hours has passed; right?

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1 A. Yes, sir.

2 Q. Okay. With respect to Exhibit 2, where you
3 indicate that there is a conversation -- some type of
4 Facebook conversation between Mr. Wright and another
5 person, where he says things like, "How would you
6 distribute it in Africa?"

7 "I have a great connection there."

8 A. Yes, sir.

9 Q. "I may have some connections in Colombia. The
10 largest dairy farmer and distributor in Algeria."

11 Correct?

12 A. Yes, sir.

13 Q. Okay. Do you know what he was talking about here?

14 A. Yes, sir.

15 Q. What is that?

16 A. He was talking about distributing an energy drink,
17 I believe, that he was a co-owner with some individuals
18 from France.

19 Q. That the one that's called Up Energy?

20 A. Upshot Energy, I believe.

21 Q. Or something?

22 A. That's my understanding, yes, sir, something close
23 to that.

24 Q. So he wasn't talking about planes or firearms or
25 anything like that, it was just about distributing an

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1 energy drink in different parts of the world?

2 A. Are you talking about why this is in here?

3 Q. No, no, I'm saying, in these conversations he's

4 talking about distributing an energy drink?

5 A. Yes, sir, he's talking about the great connection

6 he has in Algeria in reference to the energy drink

7 distribution.

8 Q. Right, he says, "I Have a great connection there."

9 And then it says, "The largest dairy farmer and

10 distributor in Algeria"?

11 A. Yes, sir.

12 Q. Right?

13 A. Uh-huh.

14 Q. That's his great connection is a dairy farmer;

15 right?

16 A. Yes, sir, and you claim there was no connections or

17 ties to extradition countries when, clearly, this is

18 the point I was making earlier on this was he, his own

19 words, he has connections to countries. So that's what

20 I'm saying. In his own words, he said, "I have a great

21 connection there."

22 Q. Right, if I can grab my opposition. Here, I have

23 it here, sorry. The actual -- I just want to go to my

24 opposition and go to --

25 A. Yes, sir.

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1 Q. "Wright has told others that he has ties to
2 non-extradition countries.

3 Okay, now, I'm just taking this from what the
4 Government wrote.

5 A. Uh-huh.

6 Q. Wright has told others not that he has ties in
7 non-extradition countries, but ties to non-extradition
8 countries. So, could that be interpreted as him having
9 ties to the governments of these countries since he
10 deals with lighter aircraft and things like that?

11 A. It could, but I don't interpret it that way.

12 Q. Okay, well, I'm just saying it could be interpreted
13 that way?

14 A. Yeah, I mean --

15 Q. Do you have -- do you have any information that he
16 has any ties to the government of Algeria?

17 A. Not to my knowledge, sir.

18 Q. Or to the government of Colombia?

19 A. Not to my knowledge, sir.

20 Q. But apparently he has ties to the government of
21 France because he's bought planes from France; right?
22 From sub-companies that deal planes --

23 A. That's my understanding, yes, sir.

24 Q. And I believe in my motion I wrote that he was
25 trying to buy these 24 Israeli trainer jets to sell

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1 some of them to the government of Guinea?

2 A. Yes, sir. And on that, Guinea is a non-extradition
3 country. So, by his own admission, yes, he would have
4 ties to a non-extradition treaty country.

5 Q. Right, but you don't know what stage that sale was
6 done, if he's just trying to get Guinea to buy them or
7 if he knows people there; you don't know that?

8 A. No, sir, I don't.

9 Q. Okay. So, in the other part, Exhibit 3, these are
10 where we talk about getting into another country. I
11 just want to make one little point on here on
12 Government's Exhibit 3. In the middle of it, it says,
13 "It's VIP treatment everywhere, no line. Customs comes
14 to you." It says, "Thank you very much. Just let us
15 quickly stamp your passport." Right?

16 A. Yes, sir.

17 Q. So, clearly, there is Customs process that takes
18 place on these private jets?

19 A. To my understanding, there is at some airports,
20 yes, sir.

21 Q. Okay. So, in other words, it appears that there is
22 a Customs process that you'd better have a passport or
23 maybe you're not getting into that country; right?

24 A. In some places, yes, sir.

25 Q. You could always land on a dirt road; right?

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1 A. Yes, sir. In fact, that's again why Mr. Wright is
2 so exceptional compared to the average defendant
3 because the average person can't land a plane on a dirt
4 road. They'd crash and burn in a fiery heap.

5 Q. Well, the average person can't fly a plane.

6 A. That's correct, yes, sir.

7 Q. What I'm saying is, do you have any information
8 that Mr. Wright has ever landed planes surreptitiously
9 on dirt roads or anywhere else?

10 A. I have a picture of him operating an aircraft on a
11 grass runway. I don't know the circumstances
12 surrounding that.

13 Q. This is that picture.

14 A. Yes, sir.

15 Q. Do you have any -- do you have any information --
16 this appears to be a pretty advanced airplane; right?

17 A. Yes, sir.

18 Q. It doesn't appear to be -- well, let me ask.

19 A. I believe it's actually the Gates Learjet.

20 Q. Learjet, okay. So you understand that a Learjet
21 doesn't land on grass; right?

22 A. I do not know. All I know is that this plane is
23 operated -- in the text message, references operating on
24 a grass runway.

25 Q. Do you have any idea whether this is just part of

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1 the airport, that he's actually on a runway as this
2 picture is taken?

3 A. I do not, sir.

4 Q. I mean, could you see where somebody can be sitting
5 at an airport and out the window you could see grass?
6 It doesn't mean he's on grass; correct?

7 A. That could be, yes, sir.

8 Q. Do you know the landing speed of a Learjet?

9 A. No, sir.

10 Q. That it can be as high as 150 miles an hour, 125
11 miles an hour?

12 A. The only information I have is that he was talking
13 about operating an airplane on a grass runway.

14 Q. Not the Learjet?

15 A. In this picture he was operating -- I don't know if
16 it was a Learjet, I can't say it's a Learjet, but he
17 was talking about operating on a grass runway.

18 Q. Okay. I'm not going to spend any time on the boat
19 stuff because we've cleared that up. Mr. Wright is a
20 qualified seafarer, I guess you could say. He can
21 probably captain a boat somewhere.

22 Now, do you know that there is a boat here in
23 Texas that he owns?

24 A. Yes, sir.

25 Q. Do you know where it is?

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- 1 A. It's in Kemah, Texas.
- 2 Q. Have you been on that boat?
- 3 A. I've never been on that boat.
- 4 Q. By one it, I mean like searched it or anything?
- 5 A. No, sir.
- 6 Q. Okay. Do you know whether that boat is seaworthy
- 7 or not right now?
- 8 A. I know it's in the water right now.
- 9 Q. So you don't know if it's seaworthy or not?
- 10 A. I have no -- I have no understanding at all. I can
- 11 see that it is in the water currently.
- 12 Q. Or if the engines work things like that?
- 13 A. I don't have any knowledge on that, sir.
- 14 Q. Okay. And obviously, Mr. Wright is not supposed to
- 15 be in that part of Texas; right?
- 16 A. That's correct.
- 17 Q. And how fast do you think this boat goes?
- 18 A. I imagine -- I have no idea, sir.
- 19 Q. 10 miles an hour, something like that? I mean,
- 20 it's really not much of a getaway vehicle if you have
- 21 to deal with the Coast Guard and things like that;
- 22 correct?
- 23 A. My understanding from talking to people is, once
- 24 that boat was moving with the location it is, it would
- 25 actually be very hard in the time frame to coordinate a

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1 response. And also, he has bragged to others it has
2 an helicopter landing pad, which easily the boat could
3 already be moving in the water and fly a helicopter to
4 it.

5 Q. Okay.

6 MR. GRASSO: The Exhibits 5 and 6, Your Honor,
7 this is sort of the weight of the evidence in the case.
8 I mean, I understand it's not sort of weight of the
9 evidence because he's not charged with -- well, I have
10 a question for him.

11 BY MR. GRASSO:

12 Q. He's not charged with any firearms offenses in this
13 case; right?

14 A. Not currently.

15 Q. Okay. And so he's not -- currently, we are dealing
16 with the Indictment in this case?

17 A. Yes, sir.

18 Q. So this has to do with, whether he denies it or
19 not -- he hasn't had a chance to plead not guilty to
20 this, but this is not part of the Indictment that the
21 Government is seeking detention on today?

22 A. No, this was only included on why he's a danger to
23 the community.

24 Q. And the basis of this being a danger to the
25 community is apparently they are talking about some

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1 kind of small handgun that he's apparently buying for
2 someone?

3 A. No, sir, the reason he's a danger to the community
4 is, even though, as you mentioned, Mr. Wright was
5 subject to a court order not to possess firearms,
6 Mr. Wright's previous behavior has shown that he
7 frequently ignores federal firearms laws and frequently
8 breaks federal firearms laws and has access to guns
9 both -- illicit access to firearms. So that's why it's
10 included as a danger to the community.

11 Q. In these text messages they are talking about
12 purchasing a firearm at a store?

13 A. One time, yes, sir.

14 Q. Right. And apparently he's dealing with R.F. in
15 this case; right?

16 A. Yes, sir.

17 Q. It has his name there, Raymond Bruce Fosdick?

18 A. That's correct, sir.

19 Q. R.F.?

20 A. Yes, sir.

21 Q. That's the guy who you don't know where he is right
22 now?

23 A. Yes, sir.

24 Q. Who's a convicted felon?

25 A. Yes, sir.

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1 Q. And do you know that Mr. Wright knew he was a
2 convicted felon?

3 A. Yes, sir, I do.

4 Q. Do you know if he did know he was convicted?

5 A. Yes, sir.

6 Q. Do you know if Mr. Fosdick told Mr. Wright that in
7 Texas, after five years, you can own a handgun?

8 A. I do not know if he told him that.

9 Q. And obviously, Mr. Fosdick didn't tell you that?

10 A. You're saying do I know if anybody --

11 Q. If Mr. Fosdick ever told you --

12 A. He never told me.

13 Q. -- that he told Mr. Wright that?

14 A. No, sir.

15 Q. That after five years of your conviction, you can
16 own a handgun in Texas?

17 A. I don't know if he told him that or not.

18 Q. Do you know if Mr. Wright is a lawyer or a legal
19 expert of any type that would question that or not?

20 A. No.

21 Q. Okay. And with respect to Exhibit 6, that one was
22 presented again because they talked about firearms;
23 correct?

24 A. Exhibit 6, I believe, is the Zeta Cartel business
25 ties to the --

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1 Q. Okay, let's talk about that. You read the defense
2 opposition where we talk about the Zeta Cartel?

3 A. Yes, sir.

4 Q. And the Government, in its presentation, never
5 brought up the fact that, for example -- well, let's
6 talk about that exhibit, and I'm going to be submitting
7 this as my exhibit list right here, the exhibit list
8 that I attached to the opposition. Let's go to
9 Exhibit --

10 MR. GRASSO: And this will be Defense Exhibit
11 1, Your Honor.

12 BY MR. GRASSO:

13 Q. Let's go to Exhibit D, their sub-Exhibit D.

14 A. I have it front of me, so you don't have to read it
15 to me, sir.

16 THE COURT: Okay, wait a minute. You're going
17 to -- you want to introduce your entire opposition as
18 an exhibit?

19 MR. GRASSO: No, not my opposition, just the
20 exhibit list on it. I mean, I can --

21 THE COURT: All right, I'm just trying to get
22 what you're trying to do. So you're saying the exhibit
23 list. Do you mean the exhibits that are attached?

24 MR. GRASSO: It's A through H, Your Honor.

25 THE COURT: I'm just trying to keep the record

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1 straight. When you say the exhibit list, you're not
2 talking about a list?

3 MR. GRASSO: No, Your Honor.

4 THE COURT: You're just talking about the
5 exhibits that are attached A through H; right?

6 MR. GRASSO: Yes.

7 THE COURT: Defendant's A through H, okay.

8 MR. GRASSO: I don't really need to submit it
9 because it's already in the record as being submitted
10 as part of my opposition. But I guess what we'll talk
11 about, Your Honor, is --

12 THE COURT: Okay.

13 MR. GRASSO: I'm just pointing to, for
14 purposes of the record, Exhibit D in that series of
15 exhibits.

16 THE COURT: All right, go ahead.

17 MR. GRASSO: Okay. If I can approach, Your
18 Honor?

19 THE COURT: Go ahead.

20 BY MR. GRASSO:

21 Q. I'm showing you what's in the defense opposition
22 as Exhibit D, and that's a Treasury Department Auction
23 House Internet page that lists the helicopter that
24 Mr. Wright bought that apparently was previously owned
25 by the Zetas; right?

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1 A. Yes, sir.

2 Q. And that helicopter, as you can see in there, it
3 says the high bidder at I think 230-something thousand
4 dollars on that list is T.R. Wright?

5 A. Yes, sir.

6 Q. And if you notice on that document, it says in two
7 places, I think under the picture and I think toward
8 the end, it says, "All sales subject to Treasury
9 Department review"?

10 A. Yes, sir.

11 Q. And do you understand what that means? Have you
12 researched that?

13 A. No, sir.

14 Q. That the Treasury Department obviously doesn't
15 want seized items to be repurchased by people with any
16 connection with the people that the item was seized
17 from; right?

18 A. I don't know that to be a fact.

19 Q. Well, do you think it's been tried in the past,
20 that when a drug cartel who has access to unlimited
21 amounts of cash, I guess, could send somebody that
22 could bid on a helicopter to get it back that was sized
23 from them? I mean, it makes sense; right?

24 A. My understanding is that if they did do such
25 checks, it's not a thorough job because nothing was

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1 deconflicted with my agency. And Mr. Wright's been
2 under investigation long before he tried to purchase
3 this helicopter.

4 Q. But what we're talking about here is that
5 Mr. Wright's explanation in the opposition is that it's
6 about the logbooks; correct?

7 A. My understanding, yes, sir, is the helicopter was
8 essentially worthless without the logbooks, and he even
9 said that, I think, in his own words.

10 Q. Exactly. Well, worthless meaning it couldn't be
11 resold. I mean, he could fly it around and he could
12 use it for his own purposes. You don't have to have
13 the logbooks to use the helicopter, you just can't
14 resell it?

15 A. To make money off the deal, Mr. Wright would have
16 had to obtain the logbooks is my understanding.

17 Q. And as it states and even in your recitation and in
18 Government Exhibit 6, he's talking about going to the
19 Zetas or getting the logbook from the Zetas?

20 A. Yes, sir.

21 Q. Okay. And you understand people talk about things
22 like that, maybe a little bit of braggadocia or
23 whatever, like I'm going to have to go deal with these
24 guys to get the logbooks. But clearly, the
25 conversation about the Zetas is "I need to get these

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1 logbooks from these people." Correct?

2 A. The conversation is, "I'm meeting with the Zeta
3 Drug Cartel and exchanging \$30,000 for some aircraft
4 logbooks that they have, which then I found out later
5 from the agents involved with this that, yes, the
6 logbooks were not taken from the original helicopter
7 and were still in possession -- thought to be in
8 possession of the Zeta Cartel.

9 Q. Do you know the actual mechanics of this
10 transaction? Regardless of what the text or the
11 message or whatever this is here, whether it was from
12 Facebook or whatever, do you know what the actual
13 mechanics of that transaction were?

14 A. No, sir, I do not.

15 Q. Do you know whether Mr. Wright actually ever met
16 with anyone in that case?

17 A. No, sir, I personally do not.

18 Q. Do you know whether Mr. Wright, as he states in
19 the opposition, sent a representative to pick up the
20 helicopter to service it and fly it back to where he
21 was, to Las Vegas or I don't even remember where, okay,
22 and that that person handled it through this Garza
23 lady, who was an aircraft broker? Do you have any
24 evidence that the Zetas were actually ever involved in
25 any of this?

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1 A. Only his own words, in which he says he's dealing
2 directly with the Zeta Cartel, and just like he was
3 sending someone -- I believe he says, in his own words,
4 they will use a messenger and broker, as well. So, in
5 his own words, he says he's going to meet with the Zeta
6 cartel. They know they have to have a broker. He says
7 they will use a messenger broker, as well. He was
8 going to send Mr. R.F., as we talked about, who is
9 known to do, by his own admission and other facts known
10 in this case, dirty work for Mr. Wright. And then he
11 tells Mr. R.F. to bring a gun.

12 So my understanding is that's all I have to go
13 by is "I talked to Mr. R.F." and his own text messages.

14 Q. But the point is we're not talking about Mr. Wright
15 meeting with the Zeta Cartel because he's conducting
16 some kind of drug transaction or some kind of firearms
17 transaction. He's trying to get the logbooks for an
18 item that he legally bought from the Treasury
19 Department?

20 A. And my understanding is the logbooks were -- my
21 understanding of how things work is, when they pay the
22 Zeta cartel for the logbooks, that money goes right
23 back to the Zeta Cartel. It's not like these logbooks
24 were at Logbooks-R-Us where they went in to buy them.
25 In his own text messages, he's saying he's dealt -- and

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1 I obviously don't know what eventually happened, as I
2 just testified, but in this he's saying: I'm going to
3 deal directly with the Zeta Cartel for logbooks, for
4 helicopters that the United States Government seized
5 for involvement in a drug trafficking organization, and
6 he's going to send someone to buy these logbooks for
7 him.

8 Q. Do you know that by 2015 the Zeta Cartel was
9 defunct?

10 A. That is not to my knowledge.

11 Q. That the last of the big bosses of the Zeta Cartel
12 were brought down by the DEA and Mexican Government and
13 there has just been a lot of stuff written about it?

14 A. My understanding is the Zeta Cartel still operates.

15 Q. Okay. I cite to -- did you see where I cite to an
16 article?

17 A. Yes, sir, I understand these two individuals whose
18 helicopters were taken out by U.S. law enforcement, but
19 it is a continual battle by U.S. law enforcement
20 against the drug cartel.

21 Q. Okay. But in other words, it's clear, though, all
22 the information you have is that the logbooks were
23 being sort of held hostage by somebody and they wanted
24 money?

25 A. That's my understanding of these text messages,

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1 yes, sir.

2 Q. Last question about this: Do you have any
3 information that Mr. Wright paid for these logbooks
4 with a cashier's check for around \$31,000?

5 A. I do not, sir.

6 Q. Okay. But there is obviously a paper trail if that
7 were the case; correct?

8 A. That would be the case, yes, sir.

9 Q. The flight plan information that you indicate about
10 him not filing flight plans, do you know what the rules
11 are with respect to filing flight plans?

12 A. Only when I talked with aviation officials, the
13 FAA, and other places.

14 Q. That certain short flights, like demonstration
15 flights, acrobatic flights, flights that fly around in
16 airports, don't require a flight plan?

17 A. I've seen they have discussed that as well, but
18 that it is common practice to file a flight plan if you
19 are going from, like you mentioned, different airports.

20 Q. And do you have any information that Mr. Wright, as
21 is indicated in one of the exhibits that I filed with
22 respect to an air traffic controller who knows him
23 personally, flies by the letter of the law, that he
24 files flight plans whenever one is required?

25 A. No. In fact, I know the opposite. Mr. Wright flew

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1 a plane into Athens, Texas, a jet, the jet that burned,
2 and no flight plan, at least to my knowledge, was ever
3 filed. And I made contact with the FAA and Air &
4 Marine Operation Center researching that plane and was
5 not able to find that flight plan, or at least they
6 were not able to find it with me.

7 Q. Do you know anything about it being a short flight,
8 VFR 17-5, not requiring a flight plan? Do you know any
9 of those terms?

10 A. I've heard those terms, sir. I don't know. All I
11 know is, again, what I told you, that it is common
12 practice to file flight plans, even from airport to
13 airport. I have no knowledge on that, sir, I'm not a
14 pilot.

15 Q. You understand that he's given up his pilot license
16 to Pretrial Services?

17 A. Yes, sir.

18 Q. That was one of the conditions. I mean, his
19 business is flying planes and buying and selling; right?

20 A. Yes, sir.

21 Q. Do you think that maybe a pilot who doesn't file
22 flight plans and regularly goes around flying around
23 without filing flight plans, do you think that may
24 affect the person's license -- pilot's license?

25 A. To my knowledge, unless you can -- it does not. I

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1 mean --

2 Q. Does not?

3 A. I don't know, I don't know the answer to that
4 question, actually.

5 Q. What was that?

6 A. My understanding is that it has been brought to the
7 attention of other individuals, but I don't know why
8 that would be, sir.

9 Q. So are you saying that it's your -- are you saying
10 that a person can fly a jet around the United States
11 post-9/11 without filing flight plans and there's no
12 problem, it doesn't even affect your license, you won't
13 even lose your license?

14 A. All I know is Mr. Wright did not file a flight plan
15 when he flew a jet into Athens, Texas.

16 Q. Do you know how long that flight was?

17 A. I do not, no, sir.

18 Q. Do you know how short that flight was?

19 A. I know it's a fairly long distance from -- to
20 Athens, Texas. We're not talking about a couple miles.
21 We're talking a large distance.

22 Q. Do you know what the cutoff is for filing --

23 A. I do not, no, sir, I'm not an aviation expert.

24 Q. Okay. Do you know if -- I mean, you found that
25 flight; correct? You were able to find a record of it?

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1 A. No, sir.

2 Q. Well, how do you know about it?

3 A. Through most of Mr. Wright's own testimony to me
4 that he flew that plane in Athens, Texas. Well, when
5 we looked back, there is no flight records. I know
6 where it was the day it took off in Uvalde, Texas. It
7 somehow ended up in Athens, Texas with Mr. Wright
8 behind the controls.

9 Q. Do you know how long that flight -- I mean, do you
10 know what the cutoff is? I think you said you didn't.

11 A. No, sir, I don't.

12 Q. Okay. With respect to the condo, do you know that
13 the Trump Tower in Las Vegas is the Trump Tower and
14 Condominiums; correct?

15 A. I do not know that, sir.

16 Q. Do you know that half of that building, that Trump
17 Tower in Vegas, is a condominium? Did you know that?

18 A. No, sir, I did not.

19 Q. Do you know that Mr. Wright uses that as home base?

20 A. I do know that he's used that before as home base,
21 yes, sir.

22 Q. Correct, he used that as a station -- do you have
23 any dispute over the fact that as of September 1st of
24 2014, he's been living there and then traveling for
25 business and going back to live there and traveling for

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1 business? Do you have any reason to dispute that?

2 A. I have him in other places, yes, I've seen him
3 living in other places.

4 Q. True, he travels around, that's the nature of his
5 business; correct?

6 A. I don't know, but yes, sir, I've seen him living at
7 other places.

8 Q. But from your direct examination, he seems to come
9 back -- he's lived at the Trump Tower before; right?

10 A. Yes, sir.

11 Q. And he was living there when he was arrested?

12 A. We were told by building management that he was
13 renting.

14 Q. Right, he's renting?

15 A. Yes, sir. It's like you rent a hotel room.

16 Q. Well, but do you understand these are condos that
17 are in there, that you rent long term? By long term, I
18 mean more than three or four days or a week, you rent
19 condos in the Trump Tower. Do you have any reason to
20 dispute that?

21 A. I have no reason. I mean, just like you rent at
22 the Residence Inn, my understanding is it's very
23 similar. You know, it's a hotel that you rent, from
24 what they told us.

25 Q. Okay, but they are -- well, so the last time he's

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1 | been living there for like about a month?

2 | A. That's my understanding.

3 | Q. Correct?

4 | A. My understanding was he had been -- we had
5 | information that he had been moving around and that he
6 | had been coming and going and we only recently found
7 | out that he had been there long term, but that's my
8 | understanding how long he actually was there.

9 | Q. Okay. So you understand that he travels to Europe
10 | a lot?

11 | A. Yes, sir.

12 | Q. He's right now working two deals in Europe: One
13 | for the three fighter trainers in France. You saw the
14 | letter in the exhibit, that deal. And he's also
15 | working the Israeli deal for those 24 Israeli fighter
16 | trainers or whatever, jet trainers?

17 | A. Yes, sir.

18 | Q. So he needs to stay in Europe for a while
19 | sometimes, no one is disputing that; right?

20 | A. No, sir.

21 | Q. Okay, one second.

22 | That's all I have. Thank you.

23 | THE COURT: I guess you can step down. Thank
24 | you.

25 | THE WITNESS: Yes, sir.

1 THE COURT: What else does the Government have?

2 MR. COAN: Your Honor, with respect to live
3 testimony, that concludes the Government's
4 presentation. I would only ask that the Court take
5 judicial notice of the Indictment for purposes of the
6 presumption.

7 THE COURT: Okay, I've already gone over that.

8 MR. COAN: That concludes the Government's.

9 THE COURT: All right, what about from the
10 Defendant?

11 MR. GRASSO: We don't have anything, Your
12 Honor, I mean, any other evidence --

13 THE COURT: Okay.

14 MR. GRASSO: -- to present other than what
15 we've presented through exhibits. I mean, obviously,
16 Mr. Wright is going to maybe make some statements as
17 part of the argument. I don't know if the Court wants
18 to hear from him. I mean, my practice --

19 THE COURT: You're going to have your client
20 make your final -- your closing argument?

21 MR. GRASSO: No, no, not at all. I'm just --
22 I know this isn't a trial, Judge. It may appear like
23 it is, but it is not a trial.

24 THE COURT: I understand.

25 MR. GRASSO: In my practice, I'm coming from

1 another jurisdiction. Sometimes the judge will address
2 the defendant, not to have him talk about the facts of
3 the case, but to say, "You understand" -- you know,
4 like --

5 THE COURT: Yes, I understand what you're
6 talking about. One of the things I was going to bring
7 up was --

8 MR. GRASSO: As to residence and things like
9 that.

10 THE COURT: A lot of -- I'm sure the judge has
11 the same or virtually the same bench book that I do.
12 There is a standard almost script of questions. But
13 typically, it seems to assume that a total stranger has
14 shown up. I've had counsel who have not provided very
15 complete and good briefs like you have. In fact, I've
16 had two rounds from y'all, so I have a pretty good idea.

17 I mean, my script starts off with: What
18 is your name, how old are you, and do you speak English,
19 which I've already asked that once. I don't mind going
20 through that, but the -- I mean, if you think -- a lot
21 of it deals with information relevant to considerations
22 of fixing bail. Frequently, attorneys are a little bit
23 leery about putting their client up to have a judge ask
24 them a bunch of questions. If you think that would be
25 appropriate and you want me to do it, I'll be glad to.

1 But I've got pretty lengthy briefs from both sides,
2 especially from you.

3 Well, all right, step on up, Mr. Wright,
4 let's go.

5 MR. GRASSO: Your Honor, I only do this
6 because I've been doing this almost 30 years, but I've
7 never been in a detention hearing like this with this
8 much -- you know, with this much complexity. Not to
9 say that I'm not blaming anybody or saying it shouldn't
10 be happening.

11 THE COURT: I'll readily grant that I seldom
12 see something with this complexity either.

13 MR. GRASSO: And sometimes it takes --
14 sometimes you've got to think outside the box in some
15 of these situations because it means everything to have
16 him remain at liberty. And so I understand the Court
17 is not going to be up there trying to question him
18 about the facts of the case. So, as long as that's,
19 you know, that's the case, which I know it will be, I
20 have no issues with Mr. Wright answering question from
21 the Court.

22 THE COURT: I have never had a detention
23 hearing, either, where before anybody walks in, I have
24 the answer to virtually every single question of the
25 standard questions that judges normally ask: Are you

1 married? Do you have any children? Are you living
2 with your spouse? How are you employed? How long have
3 you worked? I mean, all of those. If you think there
4 is something to be gained from me hearing him say it,
5 I've got no problem with it.

6 MR. GRASSO: Not just that. I'm just
7 wondering, after these two rounds that we have just
8 gone through with the witness on the stand, if there is
9 any questions the Court has regarding the two issues,
10 his risk of flight and his -- because I can tell you,
11 he can explain. He's a very experienced pilot, he's a
12 very experienced person, and when he talks about this
13 stuff, it's a lot smarter sounding than when I talk
14 about it.

15 So my point is, if the Court has any
16 questions about any of these issues, such as flight
17 plans and things like that, that don't have to do with
18 what Count 1, Count 2, Count 3 through Count 7, I don't
19 have any issues with that, Your Honor. I think we need
20 to have Mr. Wright lay out -- why don't we do it this
21 way: I'll put him on the stand and we'll address and
22 I'll ask him questions.

23 THE COURT: That might work a little bit
24 better, but the other thing I'm looking at is the time.

25 ***[Court confers with the court reporter]***

1 Let's go ahead and take a 10 minute break,
2 we've been here a while, to let everybody who needs to
3 go to the restroom go ahead and do that. So we'll be
4 in recess. And if y'all need a break, you can.

5 We're in recess.

6 **[Recess]**

7 THE COURT: We're back on the record. Note
8 for the record that I do have a copy of the Pretrial
9 Services Report from the officer, I think I mentioned
10 this before, the officer in Las Vegas, and obviously
11 the order setting conditions of the judge in Las Vegas,
12 along with the docket and the bond and so forth that
13 was set. So I have all that information and, of
14 course, the briefing on both sides.

15 So what would you like to do next, counsel?

16 MR. GRASSO: Your Honor, we've talked about it
17 and, actually, even Mr. D'Angelo spoke with the
18 Government on it, and I think the best route right now
19 would be to just submit it by proffer as part of our
20 argument.

21 THE COURT: All right, go ahead.

22 MR. GRASSO: So we're basically just finishing
23 up here with this entire hearing is what I understand.

24 THE COURT: All right.

25 MR. GRASSO: I guess I go first?

1 THE COURT: No, actually, let's hear from the
2 Government first. Yeah, go ahead. It doesn't matter.
3 You put on most of the evidence.

4 MR. COAN: Thank you, Your Honor. What's
5 before the Court is the release order entered by the
6 magistrate judge in Nevada, and the Government would
7 ask this Honorable Court to revoke that order and enter
8 an order detaining Mr. Wright pending trial.

9 The Court has previously recognized that
10 this is a presumption case, and to the extent there is
11 consideration by the Court that that presumption has
12 been rebutted, it doesn't disappear. The Court is
13 aware of the case law. It doesn't float away. It
14 remains in the case as a relevant consideration along
15 with the other factors in 3142(g).

16 And as has been pointed out several times,
17 as obvious, this is not the trial, far from it. This
18 is a detention hearing and the Government's burden, if
19 the presumption has been rebutted, is: Has there been
20 evidence established by a preponderance of the evidence
21 that this Defendant presents a flight risk,
22 specifically that there is no condition or combination
23 of conditions that would reasonably assure his
24 appearance at all prior proceedings.

25 And as the Court is aware, the

1 Government's burden on the second prong under 3142(e)
2 is a clear and convincing standard with respect to the
3 issue of whether this Defendant presents a danger to
4 the community, and the Government would submit that
5 such evidence has been presented, that there is no
6 condition or combination of conditions that would
7 reasonably assure the safety of the community.

8 There have been conditions imposed in
9 connection with this Defendant's release and the
10 Government respectfully disagrees with the sufficiency
11 of those conditions and would ask that this Court
12 revoke the present order and enter an order detaining
13 Mr. Wright pending trial.

14 THE COURT: Let me ask, I mean, the whole
15 obvious purpose or one of the purposes of the Bail
16 Reform Act -- and you take that in conjunction with the
17 Speedy Trial Act -- is I guess the antipathy that
18 Congress had and good lawyers would have. I always get
19 looks of amusement from both defense and lawyers and
20 prosecutors when I remind them, you know, he's presumed
21 innocent at this point. And defense lawyers look at me
22 like, "Gee, I haven't heard that from a judge in my
23 entire career." And the prosecutors say, "What?"

24 But the idea of someone who's presumed
25 innocent, I take him away from his business and I order

1 him confined, and then there have been some horrible
2 cases of this going on five months, six months, eight
3 months, 10 month or more. And in this case it sounds
4 like all the co-defendants, although they could have
5 been in custody, aren't; and if he's the only one, how
6 long do we wait until you're ready to go to trial?
7 And, you know, we've all seen cases where it's a drug
8 conspiracy and they get the first round and there is a
9 Motion for Continuance and they get the second round
10 and so forth.

11 But you don't see this discussed in cases
12 very often, but the whole purpose of the Act and so
13 forth is to consider that. And this is an odd case in
14 that he showed up, he's here. These other two, who
15 knows where they are going to be, and I haven't heard
16 anything at all about the third one.

17 I mean, how long, counsel, do you think I
18 should, by ordering him detained, allow it to carry on
19 before I say, "Okay, that's it, I know you don't have
20 the other guys here, you need to go to trial, he needs
21 to either be found guilty or not guilty and move on
22 about his life." And I'm not talking about a matter of
23 weeks, but where are you, where are we on this thing?

24 MR. COAN: Well, I can tell you that certainly
25 arrest warrants have been issued in connection with the

1 Indictment --

2 THE COURT: Sure. Two of them, we don't know
3 where they are even though they confessed from what I
4 heard. And the third one, I didn't hear he confessed,
5 but I didn't hear that he's likely to be here. And I
6 guess what I am indicating in reality is I'd be much
7 more likely to listen for a Motion for Continuance past
8 70 days from the Government that, if he's not in
9 custody, well, you know, you need some time to get --
10 find these people, run them down, and so forth.

11 I mean, you take a guy away from his
12 business for six months or a year and you pretty well
13 destroy him whether he's convicted or not. I mean,
14 that's just a practical -- and I know they don't talk
15 about it in the case books and you don't hear about it
16 in law school, but we've all been around this business
17 a long, long time.

18 Have you given some thought to, can you be
19 ready in a couple of months and are you ready to go
20 ahead and try this case even though for some reason the
21 others have completely absconded or, based on how the
22 testimony of how dangerous this man is, they've been
23 done away with, so they are never going to show up?

24 MR. COAN: Your Honor, those are legitimate
25 considerations and very practical considerations. A

1 couple of points:

2 One is, the whereabouts of the one
3 individual, the co-defendant, who was referenced
4 earlier R.F., his whereabouts are unknown. As I
5 understand, we believe that we can locate the other
6 two. I don't know if that means they will be arrested
7 this week or next or four weeks from now.

8 The second point, I would offer about
9 practical considerations of the Defendant's business is
10 that his business is the subject of this case.

11 THE COURT: Sure, if you're correct, then no
12 harm done. But again, I'm supposed to be presuming him
13 to be innocent. I mean, we've all heard that in law
14 school and I kind of remember it once in a while. And
15 that sounds so funny for me to be saying it and lawyers
16 always smile when I bring that up. But here I am being
17 asked to take someone into custody for an undetermined
18 amount of time, and if it turns out he's not guilty, I
19 mean, that's not even innocent. Not guilty means it
20 couldn't be proved to a jury. I understand that, too.
21 I have been on both sides of a criminal docket as a
22 lawyer. So not at the level you are at. The cases I
23 handled were much smaller cases, but I have some
24 feeling for what you are trying to prove and what
25 counsel on the other side are trying to do. But to

1 say, well, his business is a crime, that hasn't been
2 proven yet.

3 MR. COAN: Understood.

4 THE COURT: I'm supposed to be thinking of,
5 well, gee, what if it isn't, what if he's not guilty,
6 then what have I done to him? And there is a
7 difference between a few weeks and six or eight months
8 or a year while we're still waiting for these other
9 guys to come in. And so the question might be, well,
10 you've got to go ahead and try your case and maybe try
11 it again later if the other guys are ever rounded up.
12 That's the practical thing that I would at least be
13 thinking of somewhere along in there.

14 Originally, I thought when it said these
15 guys had confessed, I was thinking, okay, we've got
16 pleas just about ready to go. It's a whole lot
17 different than I'm finding out today.

18 MR. COAN: Your Honor --

19 THE COURT: Go ahead.

20 MR. COAN: -- mentioned earlier, as part of
21 one of the exchanges, considering this issue of
22 detention and considering the three co-defendants about
23 whether there -- if there was a detention situation, if
24 they are detained, there came a time where the delay
25 associated with apprehending the co-defendants began to

1 operate as some prejudice, whether evidentiary or
2 otherwise, against the first defendant who was
3 apprehended, and that may be a way to approach the
4 present situation with the Court.

5 If the Court did order that this Defendant
6 was detained today, then the parties obviously would be
7 monitoring the developments regarding the other
8 defendants and recognizes the Court would be mindful of
9 how much time is passing in the case and then whether
10 this issue of detention should be revisited at a later
11 time would and could be considered by the parties as a
12 change in circumstances that would justify bringing it
13 back to the Court's attention.

14 THE COURT: And that's a good possibility.

15 Okay, anything else then on your closing?

16 MR. COAN: No, Your Honor. Thank you.

17 THE COURT: How about from the Defendant?

18 MR. GRASSO: Thank you, Your Honor. And it's
19 always -- I've never been in this district, although I
20 have practiced in different parts of the west,
21 basically, in the United States and the East Coast,
22 too. It's hard to sort of gauge how each court does
23 things. And I do always remember, there was a judge in
24 the District of Nevada named Judge Crow, and you may
25 have heard of him. He's retired now. And on the

1 podium he has a plaque just nailed right to the podium,
2 and it says: On November 3rd, I believe, 1863, two
3 men spoke at Gettysburg. One spoke for two and a half
4 hours and the other one spoke for two minutes. Does
5 anybody remember who spoke for two and a half hours?
6 That's basically what the plaque says. So less is
7 more, I think, in a lot of these situations, and I
8 don't want to also put my foot in my mouth.

9 All I can tell the Court is that since
10 this occurred, since he was released -- and again, this
11 was a case I know Judge Hoffman, the magistrate judge
12 in this case, he's not a liberal type judge, it is not
13 a very liberal jurisdiction over there in Las Vegas,
14 and he released Mr. Wright the minute -- the day he got
15 out the next day, because what happened was the thing
16 happened at 3:00, and by the time the release order
17 came in, he was already back to the holding facility
18 and they had to do it the next day.

19 And he was at my office, he was with his
20 wife. Actually, he has been very concerned about this
21 case. I never give my cell number to my clients hardly
22 ever. This was an exception. Mr. Wright has been
23 concerned, not bothering me, but just always in contact
24 with me. He's very, very adamant about this case. He
25 has a lot of -- I didn't want to get into the facts of

1 the case and I'm not going to here, but he has
2 extremely, extremely well positioned defenses to these
3 charges from what I can tell in my experience, Your
4 Honor.

5 The Court released him on an electronic
6 monitor. He gave up whatever firearms he had in his
7 possession. He's been complying with every court
8 order. He even got to the point where, when he had to
9 drive here two days ago when he began to drive, he
10 texted and emailed the Pretrial Services Officer so
11 times that she finally told him, listen, just go, just
12 go. Because he wanted to make sure that Pretrial
13 Services knew he was leaving -- even though he was
14 under court order to be here, that he was leaving.

15 A lot of these allegations have to do with
16 some years ago, Your Honor. The important thing for
17 the Court is that these allegations where you get
18 things like he made death threats to people and things
19 like that, these are coming from these other
20 individuals who are not around right now. There is
21 nothing in the texts or nothing in writing about those
22 very important and very serious details regarding
23 threatening people, things like that.

24 The connections that he has, I think the
25 Court is well aware of this thing with the Zetas. It's

1 not a connection with the drug cartel, it's simply a
2 businessman trying to get his logbooks so he can sell a
3 helicopter that he bought from the Government.

4 So the most important thing is, Your
5 Honor, that, you know, I thought about this and, you
6 know, if someone is going to get out, if someone is
7 going make a run for it, since he apparently has so
8 much access to things to make a run for it, wouldn't
9 you think he would make a run for it before going
10 through the whole rigamarole of paying a lawyer and
11 hiring a lawyer and defending himself and appearing in
12 another jurisdiction? I mean, he's done all those
13 things. He's hired me, he's hired Mr. D'Angelo, who is
14 from my understanding, and I've known him for years, a
15 very respected member of this bar. He's always in
16 contact with us. He's done everything possible just
17 again to defend himself.

18 What he's very concerned about is, apart
19 from just obviously being away from his family -- by
20 the way, his in-laws are here, who've been behind him.
21 Actually, when he was arrested, they flew in to Las
22 Vegas from their home in Missouri and have been with
23 them the entire time because they are so concerned
24 about what's going on with him. They have been
25 baby-sitting with the 23-month-old baby so that he and

1 his wife can come to my office and talk about the case.

2 And this is a family, Your Honor, these
3 are real people. The in-laws own a farm in Missouri.
4 They've owned it -- it's been in the family for
5 hundreds of years. These are not fly-by-night people.
6 The fact that Mr. Wright's business requires him to be
7 all over the world doing things with airplanes doesn't
8 mean that he doesn't have a home base and that he
9 doesn't live in Las Vegas. He just lives the way he
10 lives because he can't just -- he feels that it's
11 probably better for him not to buy a house and just to
12 be able to live in different places. But he
13 understands now. He's under court order, he needs to
14 be in Las Vegas. He can only travel here for court
15 hearings. He clearly, clearly abides by that, Your
16 Honor.

17 And the most important thing, all I can
18 say is, even driving here, he didn't want to drive on
19 10, which would have been easier. He took a
20 round-about way to go down through Dallas and come here
21 because he didn't want to -- he thought maybe if the
22 monitor people saw that his monitor was near Mexico,
23 that it might trigger some alarms or something that he
24 was going to Mexico. So that's why he didn't go on 10.
25 He went the northern route to get here. That's how

1 concerned he is about complying with all the court
2 orders.

3 And I think the Court is very correct,
4 Your Honor, in saying that this is somebody whose
5 business requires -- he's the whole thing, he's the
6 business. He doesn't have a staff, he doesn't have --
7 he calls people, makes deals. The fact that he can't
8 travel for his business now is going to handicap him to
9 some extent, but he can work around it. I've asked him
10 about that. He says, "I can work around it. I can
11 send representatives, I can work around it. I can
12 still buy the three planes."

13 And by the way, these planes -- as it says
14 in the letter, the letter from the French individual,
15 these planes that he purchased, these three Mirage 5
16 fighter jet trainers that he purchased in France --
17 what's that guy's name from Microsoft? Paul Allen, one
18 of the founders of Microsoft, he tried to import those
19 planes because he collects these things. And the
20 French Government didn't give him permission to import
21 the planes, but they gave TRW Enterprises the
22 permission because he's worked with the French
23 Government for so long and there are so many -- you
24 know, so well that they have allowed him now to export
25 these planes to the United States or to sell to

1 collectors, because that's really what these planes are
2 for. Apparently now there are companies that have
3 shown up where, you know, you can fly in a fighter
4 plane for fun for a thousand dollars for five minutes
5 or whatever. Those are the companies that buy these
6 kinds of planes, and that's what his business is about.

7 He's done hundreds of transactions. The
8 Government has taken a few transactions to charge him
9 with, but he's does hundreds of transactions a year
10 without any issue, and he has a legitimate running
11 business, and he's not going anywhere, Judge. He's got
12 too much to lose running away. He wants to defend
13 himself. He's not going to have contact with anybody
14 who he's not supposed to have contact with.

15 I've been doing this a long time, Your
16 Honor, but he's here, he's showed up. He showed up.
17 If he was going to run, he would have done it by now.
18 He's here, he wants to take this seriously. He
19 respects the Court, he respects the process. He just
20 wants to defend himself and he wants to have the
21 ability. If he's taken into custody, the Court knows
22 it better than I do because the Court said it better
23 than I can say it. If he's taken into custody, it's
24 going to destroy his business. And I know he's going
25 to be under a microscope and he knows he's going to be

1 under a microscope, but he just would like the ability
2 to defend himself. Whatever happens in this case, if
3 we enter a plea or if go to trial, he'll accept the
4 outcome of that. He's here to accept that outcome.

5 And the last thing I want to talk about,
6 Your Honor, is the presumption aspect. Here's my take
7 on it. I understand the Court's ruling. I've been
8 doing this a long time. I'm not disputing the Court's
9 ruling. The Court is in a tough spot. It's a case of
10 first impression. The Court made a call. That's a
11 position lawyers and judges have to be in all the time.
12 No issues with that.

13 However, as you can see from the cases
14 that were cited, even that case they found up in
15 Arizona, it was clearly a case where they were blowing
16 up buildings or sending bombs to buildings. This case
17 doesn't have that. It doesn't have -- it has,
18 accepting the Government's facts as true, Mr. Wright
19 sending an individual to light his own airplane on
20 fire. That's what the allegation is. It's by itself,
21 there is nobody in it, it's a controlled situation, and
22 it has nothing to do -- I'm not saying that's a good
23 thing to do or it's right or it wasn't breaking the law
24 if that's the case and it really did happen, but it's
25 not a terrorism case, it's not an explosives case.

1 So I know there is a presumption that the
2 Court found here. But when you look at that in
3 connection with everything else, with the facts of the
4 case, with Mr. Wright's not having any prior
5 convictions at all, with Mr. Wright complying with the
6 Court order the way he has and he's shown and he's been
7 here, I think all those things say to the Court to just
8 let the order stand that Nevada imposed and now that it
9 will become this Court's order. And Mr. Wright will
10 show you that as far as this case is concerned, you are
11 not going to have any problems out of him.

12 Thank you, Your Honor.

13 MR. D'ANGELO: Judge, may I, if I could, add
14 just a bit to that before we can conclude?

15 THE COURT: Sure.

16 MR. D'ANGELO: You know, adding the unique
17 perspective of practicing in this district, I do a
18 great deal of criminal defense work here, and I think
19 the Court would agree with me that this is not the
20 typical defendant that we see come before the Court for
21 a pretrial determination. This is a unique case. We
22 don't do a lot of, quote-unquote, white collar cases in
23 this district with defendants who have such significant,
24 not only prestigious, but well-established ties in
25 their industry. We typically go through defendants who

1 have extensive criminal histories, who are involved
2 predominantly in drug cases, where there is an indicia
3 that they will continue to abuse substances, that they
4 will be a risk of flight, that they will re-offend.

5 Judge, I don't see --

6 THE COURT: Well, how do I deal with the fact
7 that he's got no ties to the Eastern District?

8 MR. D'ANGELO: And I'd like to, if I could,
9 Judge, address what I think the Government has spent a
10 great deal of time on, and that is the unique
11 characteristics of this individual, his skill set. If
12 the Court were for a moment to set aside the bulk of
13 the Government's detention argument, which is focused
14 on his unique skill set and that that somehow will
15 facilitate this case, I think that's walking down a
16 very dangerous path because that argument can be
17 extrapolated -- and I will address the Court's issue of
18 ties, but that issue can be extrapolated to any number
19 of skill set.

20 If he were a Kenyan marathon runner who
21 lived near the Mexican border, an argument could be
22 made that, you know what, even on a monitor, he can put
23 olive oil on the monitor and go for an all night jog
24 and make it to Mexico. He could acquire travel
25 documents that are fraudulent. If the Court would to

1 set aside his unique skills as a pilot and just look at
2 him, the fact that the Pretrial Services Report suggests
3 that he should be released, what he has to lose, what's
4 in this courtroom, what Mr. Grasso has said very
5 eloquently, that if he had to take an opportunity to
6 flee to a non-extradition nation, he sure as heck would
7 have done it as soon as he got word that the Government
8 was questioning his release and that he was being
9 ordered to come here for a hearing.

10 Now, to address the Court's concern with
11 respect to ties, Judge, he has local counsel here. I
12 would be in constant communication. Mr. Grasso and I
13 have 30 years together. We are very close friends, we
14 communicate very regularly. Mr. Grasso is a very well
15 respected attorney in his district. The fact that we
16 have a local element to this case would, I think, give
17 this Court a degree of comfort in knowing, because if
18 there were ever a hesitation with respect to an issue
19 of pretrial release, I'm here and I can be here on a
20 moment's notice to address any issue.

21 But, Judge, I would ask the Court to set
22 aside what are, quite frankly, remarkable skills that
23 this man has and talents and not prejudice him with
24 those talents. Because setting aside those talents,
25 here is a man with no criminal history, a successful

1 business, a family who is here before this Court with
2 his family, and who has demonstrated since his release
3 that he can follow the Court's rules. Give him the
4 chance to continue to follow those rules, Judge,
5 because, as you very well stated, it will be
6 devastating for him to go in. He has much to lose,
7 including his ability to effectively defend himself.

8 And again, if he were a marathon runner,
9 would that be the argument that the Government would
10 then be advancing, that he could just take off at night
11 and go over the Texas border to Mexico? If somebody
12 were sincerely going to evade pretrial release, then no
13 defendant would be eligible for release because any
14 defendant under any scenario could figure out a way to
15 get out of this country, and that's simply not the
16 standard.

17 That being said, Judge, I have nothing
18 further to add. Thank you.

19 **[Pause]**

20 MR. GRASSO: Your Honor, one last thing.

21 THE COURT: Sure.

22 MR. GRASSO: I just asked my client. If the
23 Court orders him, he would live here if he had to, to
24 be able to stay out. He would find a residence here
25 and he would be here within a reasonable amount of time

1 to be able to move his things here. He would come to
2 this district and live here.

3 MR. D'ANGELO: And he would have the benefit
4 of local counsel at that point, Judge.

5 **[Pause]**

6 THE COURT: All right. In a case like this,
7 under the statutes, and we've gone over them, there is
8 a rebuttable presumption if someone is charged with a
9 violation of 844(i) -- 18 U.S.C. Section 844(i) --
10 because of the operation of sections 3142(e)(3)(C) and
11 section 2332b(g)(5)(B), there is a rebuttable
12 presumption that no condition or combination of
13 conditions will reasonably assure the appearance of a
14 person as required and the safety to the community.

15 Now, there is probable cause to believe
16 that Mr. Wright violated section 844(i) because there
17 has been an Indictment. And the Indictment, a Grand
18 Jury returned an Indictment, probable cause is
19 established. *U.S. vs. Valenzuela-Verdigo*, 815 F2d,
20 1011, at 1012. That's a Fifth Circuit 1987.

21 To overcome that presumption, the
22 defendant has the burden of proof by a preponderance of
23 evidence that he will appear, report as required, and
24 then clear and convincing evidence he does not pose a
25 danger to the community. *United States vs. Jackson*,

1 845 F2d, 1262, at 1264, Fifth Circuit 1988.

2 Usually, that goes into a four-factor
3 test to determine whether that presumption has been
4 overcome.

5 Factor 1 gets into the nature and
6 circumstances of the offense charged, including, one,
7 is it a crime of violence? I don't see, especially
8 under some of the more recent decisions, that we're
9 getting that one of these is a crime of violence. It
10 doesn't seem to involve sex trafficking. That's not
11 part of the Indictment. Not a federal crime of
12 terrorism, although it's one of those listed acts had
13 it been involving the Government. Doesn't seem to
14 involve a minor victim or a controlled substance.
15 Doesn't seem to involve firearms, although he has them,
16 or explosives other than setting the fire, as alleged,
17 on the vehicle. So, in terms of that factor weighing
18 against will he appear or not, that factor does not
19 weigh against the Defendant on that.

20 Other the other hand, evidence whether
21 Mr. Wright poses a danger to the community, this is the
22 harder one because it's the defendant's burden by clear
23 and convincing evidence. What troubles me is we have
24 this evidence of two different people alleging or
25 supposedly stating that he had threatened them, had

1 threatened to kill them.

2 And then there is the e-mail discussion of
3 the black tip ammunition from the Secret Service. If
4 they used the same color coding as the military, that's
5 armor piercing. For all I know, in the Secret Service
6 it's -- I don't know if Winchester has a silver tip.
7 Black tip may mean something else. But in any case, at
8 least in the email, it made it sound like it was some
9 sort of special ammunition used by the Secret Service,
10 and there was no rebuttal of that. There was the
11 indication that these two people were -- cross-
12 examination about them being convicted felons and one
13 of them a sex offender. Now, that does weigh in favor
14 of a finding against Mr. Wright on the danger to the
15 community issue.

16 Next, Factor 2, weight of the evidence
17 against the person, courts indicate that's usually the
18 least important. He's presumed innocent. I really
19 don't have the evidence on whether he's actually
20 committed these offenses or not. So, in terms of
21 whether he's likely to appear for court as required or
22 pose a danger based on the weight of the evidence
23 against him on the offenses themselves, I think it's
24 neutral on both of those as to both whether he's going
25 to appear or whether he poses a danger.

1 Factor 3, the history and characteristics
2 of the person, including their character, physical and
3 mental condition, family ties, employment, financial
4 resources, length of residence in the community,
5 community ties, past history and conduct, history of
6 drug and alcohol abuse, criminal history, court
7 appearances, the only court proceeding I know he's
8 had -- well, I guess he's had two of them and I guess
9 he was there in Nevada and he's here, so that works in
10 his favor on whether he's going to show up.

11 The family ties, he's got family here.
12 That works in his favor.

13 The employment and his resources and the
14 length of residence in the community, his community
15 ties. While it's true, as counsel pointed out, that's
16 his job, he has to travel, on the other hand, that
17 makes him very liquid and easy to move around,
18 obviously well able to move easily and live in many
19 different places. And his wife and child evidently can
20 travel with him. There's not really a good solid tie
21 to Nevada. If he and they leave, there is no one else
22 left there. In-laws in Missouri, presumably she could
23 come back and visit them. That works against him on
24 both showing up -- on showing up, and not a whole lot
25 of evidence as far as danger to the community.

1 No history relating to drug or alcohol
2 abuse. The only prior criminal history, I think, is
3 driving without a license, maybe in Georgia or some
4 place that I saw.

5 So, on balance, that one, I take a close
6 look at the discussion about the access to the
7 aircraft, vehicles, boats and his financial resources.
8 He obviously has a greater than normal ability to
9 leave. We've gone on and on about the special skill
10 set he has.

11 Now, counsel makes a good point: What
12 about the case of the long distance runner, what about
13 the person skilled in several foreign languages? I
14 mean, there's a lot of people who might have the
15 ability to -- or what about the person where one of his
16 parents was from Mexico and the child was born here.
17 At least, it used to be that would be a Mexican citizen
18 and a U.S. Citizen and they would have the extra
19 ability to disappear down to Mexico, especially if they
20 spoke Spanish.

21 You're right, I think that argument has a
22 lot of weight, but you can't just look at all the
23 factors. This is unusual because it's a combination of
24 the access to all these modes of transportation plus
25 the ability and the facility of which he's lived

1 overseas for a long period of time, evidently traveling
2 to lots of different places by himself and also, as I
3 understand it, with his wife and child. That factor
4 weighs against Mr. Wright in terms of would he appear
5 for court or the likelihood of him fleeing or not
6 appearing for court as required.

7 And then Factor 4, the nature and
8 seriousness of the danger to any person or community
9 would be imposed by the person's release. And again,
10 the burden of persuasion remains with the Government,
11 but there is a burden imposed on Defendant to produce
12 some evidence on the point when there is a statutory
13 presumption. Here I'm looking at *United States vs.*
14 *Trosper*, 809 F2d 1107, Fifth Circuit 1987, and that's
15 the case where the Court went through the defendant's
16 attempts to rebut the presumptions, and in that case
17 indicating that he wasn't able to do it, and pointed
18 out that the Government was required to establish its
19 contention that defendant's appearance at trial could
20 not be reasonably assured by any combination of
21 conditions of bail.

22 And the Court then -- it's the one case
23 I've seen where they try to go into this shifting kind
24 of a burden, and in the end the Court points out that
25 it's somewhat similar to Title 7 of the Civil Rights

1 Act. And in the end, "When a case (or a hearing) has
2 been fully heard, the shifting of and descriptions of
3 evidentiary burdens become largely irrelevant and the
4 question becomes where the evidence as a whole supports
5 the conclusions of the proceedings below."

6 So, while it's one thing to do, as they
7 did in *Trosper*, go through what each factor was shown
8 and who presented the evidence, it does appear that the
9 Government has shown -- and this is by a preponderance
10 of the evidence -- that the defendant is likely not to
11 appear; or if you flipped it the other way, the
12 defendant has not put in the evidence necessary or
13 tried to meet the burden, although it's a mild burden,
14 that he will appear.

15 But more importantly in this case, as I
16 said before, I'm concerned about this danger, because
17 here, if you're looking at the presumption side of it,
18 the Government has gone ahead and put out evidence that
19 the agent has about dangerousness and threats being
20 made and the fact that someone has access to pistols.
21 In Texas that's not so unusual, especially if you have
22 a concealed handgun license. But some of the emails on
23 the kinds of ammunition and so forth, and then the
24 discussion of sale or transfer to a felon, the threats
25 that were made and no rebuttal on any of that, I

1 definitely have to find that the Government has met its
2 burden on that, that defendant did not meet the burden
3 by clear and convincing on that. And overall on that,
4 it seems there has been a showing that he -- or there
5 has not been a showing that he would not pose a danger
6 to the community on that.

7 And so I am going to find -- and I'm going
8 to put this in writing, of course, as I'm required to,
9 but I want everyone to understand basically my thought
10 process on this. I am going to find that the
11 Government has met its burden in this case, Defendant
12 has not met the burden he has; and overall on that, the
13 Court finds that there has not been -- I'm sorry, the
14 Government has established and the Defendant has not
15 rebutted, or if you want to look at the presumption
16 side, the Defendant has not met its burden that there
17 is no -- I find there is no condition or combination of
18 conditions that will reasonably assure the appearance
19 of Defendant as required and assure the safety of the
20 community, and so I am going to order him detained.

21 Now, I am very concerned about the length
22 of this particular detention, especially in light of
23 the fact that we have people out there who, I mean, if
24 they are picked up in two or three months and then they
25 get counsel a month later finally when we get them in

1 here, then you know that attorney is going to be asking
2 for and will rightly be entitled to a continuance to
3 get ready. It starts to become very unfair. I mean,
4 you either wind up having a defendant in confinement
5 far past the Speedy Trial Act time, and to the point
6 where, I mean, this is already going to work a hardship
7 on him, but far past the time that is I guess in my
8 mind reasonable in these circumstances.

9 So the Government has to be very well
10 prepared. And obviously, if the Defendant asked for a
11 continuance, that might be different. But I may very
12 well, sooner than would be in the normal case, say,
13 "Look, I know you don't want to try this case twice,
14 but this guy needs -- this Defendant needs his day in
15 court and you need to be prepared to go through with
16 it. Now, I'm not talking a matter of couple of weeks
17 from now, but if we're not finding these people, we're
18 not getting them, then I'm not at all inclined to keep
19 this Defendant confined until he finally breaks down
20 and cuts a deal just to get out, or waiting and
21 wondering where these others are. I mean, one is in
22 Hawaii.

23 Well, I guess I can't make it any clearer
24 than that. I want the Government prepared, that if
25 we're not moving along within a reasonable time and I'm

1 going to be looking at the Speedy Trial Act and things,
2 that I might very well exercise my discretion and say,
3 "Yes, I don't like to waste the judicial resources
4 trying a case twice, but I may have to." And so I'd
5 certainly suggest that you start getting everything
6 prepared. Now, I also understand the Defendant and his
7 counsel may agree with you on a continuance, that they
8 don't want to go that fast, but I don't like the idea
9 in this case -- I don't like the idea in any case of
10 people being held for long periods of time before they
11 have a trial.

12 MR. COAN: Understood, Your Honor.

13 THE COURT: Yes, sir.

14 MR. GRASSO: Your Honor, would -- I've never
15 asked for this before, but would the Court consider
16 allowing the defendant to remain out pending appeal of
17 the Court's order and he would remain in this
18 jurisdiction and check in with Pretrial every day, I
19 mean, at least given that he's here, he showed up,
20 knowing that the reason he was showing up here is for
21 the Court to make a decision as to whether he was going
22 in or not, it wasn't for a Motion to Suppress or
23 anything?

24 THE COURT: No. And in case I forget in the
25 written order, I thought about that long and hard and

1 your argument that if he's here, why wouldn't he have
2 left. But when we're talking about a preponderance of
3 the evidence, why wouldn't he show up if he knows the
4 other people are gone and maybe never are going to show
5 up? Why wouldn't he show up? He really doesn't have
6 to worry until these so-called confessors show up and
7 start trying to cut their 5K1 or 35(b) deals. Until
8 they show up, I'm guessing there is very darn little
9 evidence out there. I mean, you've got some tapes.
10 But unless somebody is talking, how are you going to
11 tell what happened to that airplane that crashed and
12 sunk or the one that burned? I mean, I'm not giving
13 away any surprises here. Y'all are experienced
14 lawyers. Somebody is going to have to come, and so why
15 wouldn't you show up if you don't think the other
16 people are here?

17 MR. D'ANGELO: Here's my concern with that,
18 Judge. Having tried conspiracy cases, especially one
19 in particular with the Colombian Drug Cartel where half
20 the defendants were dead or missing, co-conspirator
21 statements can come in. So the admission that this
22 agent testified to today could theoretically come in at
23 trial and we would then be hamstrung because we would
24 have no confrontation ability and the Government could
25 theoretically put their case forward with nonexistent

1 co-conspirators.

2 THE COURT: Well, and they could try that, I
3 understand it, but they might have to do that more
4 quickly than would normally be acceptable.

5 Well, let me hear from the Government as
6 to Defendant's request there.

7 MR. COAN: As to allowing him to remain on
8 conditions pending appeal?

9 THE COURT: Until appeal.

10 MR. COAN: Your Honor, we would object to that.

11 THE COURT: I guess in my mind that would
12 basically -- if I was going to allow that, then I
13 should have just ruled to let him out on the same
14 conditions continuously. I mean, he's either -- I have
15 made the finding and it is my concern about the danger.
16 And also, which I think in this case actually weighs
17 more strongly on my mind than his ability to flee,
18 although that plays into it, if that is correct, then
19 allowing him out for a short time is just as bad as
20 allowing him out until trial.

21 MR. GRASSO: My only point, Your Honor, with
22 respect to that is that if the Court were to allow him
23 to remain in this jurisdiction, that the appeal, it's
24 not as if we're going appeal this for the sake of
25 appeal. There clearly is, and my client will

1 understand that, that issue that the Court said it was
2 a case of first impression.

3 THE COURT: I understand that.

4 MR. GRASSO: We have actually a legitimate
5 reason to appeal that issue. And therefore, my client
6 would understand that, hey, I'm going to stay -- not
7 that he wouldn't do it anyway because he's been doing
8 it up to now, but cross my T's and dot my I's pending
9 this appeal because, you know, I could really have a
10 legitimate shot at maybe the Fifth Circuit reversing
11 this. And he would stay either, I don't know, here or
12 in Tyler, but he would be checking in every day,
13 whatever other conditions the Court would set. I think
14 it would also help -- it would also allay the Court's
15 concerns that the Court stated, which was his business
16 and things like that, being able to defend himself.
17 And then if the Fifth Circuit says you were correct,
18 then you were correct.

19 THE COURT: I don't know what other conditions
20 I could set. I mean, he's already on electronic
21 monitoring. I mean, yeah, he could call in, but he
22 could call in from almost anywhere with today's
23 technology.

24 MR. GRASSO: I mean, walk in.

25 THE COURT: And in the day of motor transport

1 with our roads at 40 miles an hour, like back in the
2 Thirties, given where we are, that might mean
3 something. But even a 24-hour head start in a jet or a
4 helicopter and so forth, the person is gone. So, while
5 I understand why you are making the request, I'm going
6 to have to deny it.

7 As I said, I'm going to go ahead and
8 reduce this to a written order, which will obviously
9 supplant, since my verbal order doesn't. As I
10 understand it, I couldn't just rely on it anyway. I've
11 got to submit a written order.

12 Yes, sir?

13 MR. D'ANGELO: Judge, I have one --
14 respectfully, one request before you remand him.

15 THE COURT: Okay.

16 MR. D'ANGELO: Would you please order or at
17 least recommend to the marshals that they house him in
18 Tyler so that I can have access to him? Because if
19 he's housed here, it's going to present a tremendous
20 hardship for our ability to have contact with him.
21 It's a Tyler case.

22 THE COURT: Right, it is a Tyler case, and
23 most of the hearings and so forth will be done dealing
24 with the Tyler. I doubt if tonight is when he's going
25 to be placed. I do know, in matters of transport and

1 so forth, it's a whole lot easier on the Marshal
2 Service or whoever is doing the transport, if he's up
3 in one of the facilities that deals with Tyler, if he's
4 there, because if there is any hearings, either I'm up
5 there or I'm handling it, and the marshals would be
6 bringing him from here to there.

7 MR. D'ANGELO: I'll give them my cell phone.

8 THE COURT: Yeah, I mean, tonight there is
9 no --

10 MR. D'ANGELO: I understand.

11 THE COURT: Yeah, but --

12 MR. D'ANGELO: I just don't want him
13 here indefinitely.

14 THE COURT: I would certainly recommend that
15 he be placed -- if anybody is wondering where his
16 hearings and trial and so forth is going to be, it's
17 going to be in Tyler and it would certainly make it
18 easier for U.S. Attorney's Office because they're
19 likely to be out of either Tyler or Plano or wherever.

20 You're in Tyler; right?

21 MR. COAN: Yes, Your Honor.

22 THE COURT: Yeah. Everybody involved in this
23 case is from Tyler and I'll either be going there or
24 handling it by video. So, if that's any consideration
25 where y'all finally put him, it would sure make it

1 easier if he was up close to the Tyler area than down
2 here, because down here it means everybody has got to
3 travel, including -- well, including everybody, just
4 about.

5 Oh, and if there is some way that he can
6 be given some food, I bet you LaSalle's food time is
7 already over.

8 DEPUTY MARSHAL: We'll work on it.

9 THE COURT: Okay. I think their dinner time
10 is 5:30 or 6:00 or something like that.

11 All right. So then Defendant is remanded
12 to custody of United States Marshal and then, pending
13 further proceedings, be delivered back to the court for
14 further hearings and trial.

15 Anything else from point of view of the
16 Government?

17 MR. COAN: No, Your Honor, thank you.

18 THE COURT: Anything else from point of view
19 of defendants?

20 MR. GRASSO: No, Your Honor, thank you.

21 THE COURT: Thank you. And I appreciate the
22 very complete briefing both sides did on this and the
23 exhibits.

24 MR. GRASSO: Your Honor, could he say goodbye
25 to his wife and daughter?

1 THE COURT: To do that, I'm going to direct
2 that he self-report to the marshal at the doorway, so
3 he's not in their custody yet, so he can say goodbye to
4 them, because once he's in their custody, he can't do
5 it. So he'll self report to you at the door.

6 Court is adjourned.

7 **[6:20 p.m. - Proceedings adjourned]**

8

9 REPORTER'S CERTIFICATE

10

11 I certify that the foregoing is a correct transcript
12 from the record of proceedings in the above-entitled
13 cause.

14

15 /s/ Ed Reed
16 Edward L. Reed
16 Court Reporter

7-21-17
Date

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